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5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 74.39A  
8 RCW to read as follows:

9 Unless the context clearly requires otherwise, the definitions in  
10 this section apply throughout this chapter.

11 (1) "Adult family home" means a facility licensed under chapter  
12 70.128 RCW.

13 (2) "Adult residential care" means personal care services provided  
14 by a boarding home that is licensed under chapter 18.20 RCW and that  
15 has a contract with the department under section 15 of this act.

16 (3) "Aging and adult services administration" means the aging and  
17 adult services administration of the department.

18 (4) "Assisted living services" means services provided by a  
19 boarding home that has a contract with the department under RCW  
20 74.39A.010 and the resident is housed in a private apartment-like unit.

21 (5) "Boarding home" means a facility licensed under chapter 18.20  
22 RCW.

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

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

33 (8) "Home and community services" means assisted living services,  
34 enhanced adult residential care, adult residential care, adult family  
35 homes, in-home services, and other services administered by the aging

1 and adult services administration of the department directly or through  
2 contract with area agencies on aging.

3 (9) "Long-term care services" means the services administered  
4 directly or through contract by the aging and adult services  
5 administration of the department, including but not limited to nursing  
6 facility care and home and community services.

7 (10) "Enhanced adult residential care" means personal care services  
8 and limited nursing services, as defined by the department of health in  
9 rule, which services are provided by a boarding home that is licensed  
10 under chapter 18.20 RCW and that has a contract with the department  
11 under section 15 of this act.

12 (11) "Nursing facility" means a nursing facility as defined in  
13 section 1919(a) of the federal social security act and regulations  
14 adopted thereunder.

15 (12) "Nursing home" means a facility licensed under chapter 18.51  
16 RCW.

17 (13) "Trially licensed boarding home" means a boarding home  
18 licensed by a federally recognized Indian tribe which home provides  
19 services similar to boarding homes licensed under chapter 18.20 RCW.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.39A RCW  
21 to read as follows:

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

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

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

29 (b) be authorized to use funds available under its community options  
30 program entry system waiver granted under section 1915(c) of the  
31 federal social security act to expand the availability of in-home,  
32 adult residential care, adult family homes, enhanced adult residential  
33 care, and assisted living services. By June 30, 1997, the department  
34 shall undertake to reduce the nursing home medicaid census by at least  
35 one thousand six hundred by assisting individuals who would otherwise  
36 require nursing facility services to obtain services of their choice,  
37 including assisted living services, enhanced adult residential care,  
38 and other home and community services. If a resident, or his or her

1 legal representative, objects to a discharge decision initiated by the  
2 department, the resident shall not be discharged if the resident has  
3 been assessed and determined to require nursing facility services. In  
4 contracting with nursing homes and boarding homes for enhanced adult  
5 residential care placements, the department shall not require, by  
6 contract or through other means, structural modifications to existing  
7 building construction.

8 (3)(a) The department shall by rule establish payment rates for  
9 home and community services that support the provision of cost-  
10 effective care.

11 (b) The department may authorize an enhanced adult residential care  
12 rate for nursing homes that temporarily or permanently convert their  
13 bed use for the purpose of providing enhanced adult residential care  
14 under chapter 70.38 RCW, when the department determines that payment of  
15 an enhanced rate is cost-effective and necessary to foster expansion of  
16 contracted enhanced adult residential care services. As an incentive  
17 for nursing homes to permanently convert a portion of its nursing home  
18 bed capacity for the purpose of providing enhanced adult residential  
19 care, the department may authorize a supplemental add-on to the  
20 enhanced adult residential care rate.

21 (c) The department may authorize a supplemental assisted living  
22 services rate for up to four years for facilities that convert from  
23 nursing home use and do not retain rights to the converted nursing home  
24 beds under chapter 70.38 RCW, if the department determines that payment  
25 of a supplemental rate is cost-effective and necessary to foster  
26 expansion of contracted assisted living services.

27 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.41 RCW  
28 to read as follows:

29 (1)(a) The department of social and health services, in  
30 consultation with hospitals and acute care facilities, shall promote  
31 the most appropriate and cost-effective use of long-term care services  
32 by developing and distributing to hospitals and other appropriate  
33 health care settings information on the various chronic long-term care  
34 programs that it administers directly or through contract. The  
35 information developed by the department of social and health services  
36 shall, at a minimum, include the following:

37 (i) An identification and detailed description of each long-term  
38 care service available in the state;

1 (ii) Functional, cognitive, and medicaid eligibility criteria that  
2 may be required for placement or admission to each long-term care  
3 service; and

4 (iii) A long-term care services resource manual for each hospital,  
5 that identifies the long-term care services operating within each  
6 hospital's patient service area. The long-term care services resource  
7 manual shall, at a minimum, identify the name, address, and telephone  
8 number of each entity known to be providing long-term care services; a  
9 brief description of the programs or services provided by each of the  
10 identified entities; and the name or names of a person or persons who  
11 may be contacted for further information or assistance in accessing the  
12 programs or services at each of the identified entities.

13 (b) The information required in (a) of this subsection shall be  
14 periodically updated and distributed to hospitals by the department of  
15 social and health services so that the information reflects current  
16 long-term care service options available within each hospital's patient  
17 service area.

18 (2) To the extent that a patient will have continuing care needs,  
19 once discharged from the hospital setting, hospitals shall, during the  
20 course of the patient's hospital stay, promote each patient's family  
21 member's and/or legal representative's understanding of available long-  
22 term care service discharge options by, at a minimum:

23 (a) Discussing the various and relevant long-term care services  
24 available, including eligibility criteria;

25 (b) Making available, to patients, their family members, and/or  
26 legal representative, a copy of the most current long-term care  
27 services resource manual;

28 (c) Responding to long-term care questions posed by patients, their  
29 family members, and/or legal representative;

30 (d) Assisting the patient, their family members, and/or legal  
31 representative in contacting appropriate persons or entities to respond  
32 to the question or questions posed; and

33 (e) Linking the patient and family to the local, state-designated  
34 aging and long-term care network to ensure effective transitions to  
35 appropriate levels of care and ongoing support.

36 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.41 RCW  
37 to read as follows:

1 "Cost-effective care" and "long-term care services," where used in  
2 sections 3 and 5 of this act, shall have the same meaning as that given  
3 in section 1 of this act.

4 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.41 RCW  
5 to read as follows:

6 (1) Hospitals and acute care facilities shall:

7 (a) Work cooperatively with the department of social and health  
8 services, area agencies on aging, and local long-term care information  
9 and assistance organizations in the planning and implementation of  
10 patient discharges to long-term care services.

11 (b) Establish and maintain a system for discharge planning and  
12 designate a person responsible for system management and  
13 implementation.

14 (c) Establish written policies and procedures to:

15 (i) Identify patients needing further nursing, therapy, or  
16 supportive care following discharge from the hospital;

17 (ii) Develop a documented discharge plan for each identified  
18 patient, including relevant patient history, specific care  
19 requirements, and date such follow-up care is to be initiated;

20 (iii) Coordinate with patient, family, caregiver, and appropriate  
21 members of the health care team;

22 (iv) Provide any patient, regardless of income status, written  
23 information and verbal consultation regarding the array of long-term  
24 care options available in the community, including the relative cost,  
25 eligibility criteria, location, and contact persons;

26 (v) Promote an informed choice of long-term care services on the  
27 part of patients, family members, and legal representatives; and

28 (vi) Coordinate with the department and specialized case management  
29 agencies, including area agencies on aging and other appropriate long-  
30 term care providers, as necessary, to ensure timely transition to  
31 appropriate home, community residential, or nursing facility care.

32 (d) Work in cooperation with the department which is responsible  
33 for ensuring that patients eligible for medicaid long-term care receive  
34 prompt assessment and appropriate service authorization.

35 (2) In partnership with selected hospitals, the department of  
36 social and health services shall develop and implement pilot projects  
37 in up to three areas of the state with the goal of providing  
38 information about appropriate in-home and community services to

1 individuals and their families early during the individual's hospital  
2 stay.

3 The department shall not delay hospital discharges but shall assist  
4 and support the activities of hospital discharge planners. The  
5 department also shall coordinate with home health and hospice agencies  
6 whenever appropriate. The role of the department is to assist the  
7 hospital and to assist patients and their families in making informed  
8 choices by providing information regarding home and community options.

9 The department shall by December 12, 1995, report to the house of  
10 representatives health care committee and the senate health and long-  
11 term care committee regarding the progress and results of the pilot  
12 projects along with recommendations regarding continuation or  
13 modification of the pilot projects.

14 In conducting the pilot projects, the department shall:

15 (a) Assess and offer information regarding appropriate in-home and  
16 community services to individuals who are medicaid clients or  
17 applicants; and

18 (b) Offer assessment and information regarding appropriate in-home  
19 and community services to individuals who are reasonably expected to  
20 become medicaid recipients within one hundred eighty days of admission  
21 to a nursing facility.

22 NEW SECTION. **Sec. 6.** A new section is added to chapter 74.39A RCW  
23 to read as follows:

24 The department shall work in partnership with hospitals in  
25 assisting patients and their families to find long-term care services  
26 of their choice. The department shall not delay hospital discharges  
27 but shall assist and support the activities of hospital discharge  
28 planners. The department also shall coordinate with home health and  
29 hospice agencies whenever appropriate. The role of the department is  
30 to assist the hospital and to assist patients and their families in  
31 making informed choices by providing information regarding home and  
32 community options to individuals who are hospitalized and likely to  
33 need long-term care.

34 (1) To the extent of available funds, the department shall assess  
35 individuals who:

36 (a) Are medicaid clients, medicaid applicants, or eligible for both  
37 medicare and medicaid; and

1 (b) Apply or are likely to apply for admission to a nursing  
2 facility.

3 (2) For individuals who are reasonably expected to become medicaid  
4 recipients within one hundred eighty days of admission to a nursing  
5 facility, the department shall, to the extent of available funds, offer  
6 an assessment and information regarding appropriate in-home and  
7 community services.

8 (3) When the department finds, based on assessment, that the  
9 individual prefers and could live appropriately and cost-effectively at  
10 home or in some other community-based setting, the department shall:

11 (a) Advise the individual that an in-home or other community  
12 service is appropriate;

13 (b) Develop, with the individual or the individual's  
14 representative, a comprehensive community service plan;

15 (c) Inform the individual regarding the availability of services  
16 that could meet the applicant's needs as set forth in the community  
17 service plan and explain the cost to the applicant of the available in-  
18 home and community services relative to nursing facility care; and

19 (d) Discuss and evaluate the need for on-going involvement with the  
20 individual or the individual's representative.

21 (4) When the department finds, based on assessment, that the  
22 individual prefers and needs nursing facility care, the department  
23 shall:

24 (a) Advise the individual that nursing facility care is appropriate  
25 and inform the individual of the available nursing facility vacancies;

26 (b) If appropriate, advise the individual that the stay in the  
27 nursing facility may be short term; and

28 (c) Describe the role of the department in providing nursing  
29 facility case management.

30 NEW SECTION. **Sec. 7.** A new section is added to chapter 74.42 RCW  
31 to read as follows:

32 A nursing facility shall not admit any individual who is medicaid  
33 eligible unless that individual has been assessed by the department.  
34 Appropriate hospital discharge shall not be delayed pending the  
35 assessment.

36 To ensure timely hospital discharge of medicaid eligible persons,  
37 the date of the request for a department long-term care assessment, or  
38 the date that nursing home care actually begins, whichever is later,

1 shall be deemed the effective date of the initial service and payment  
2 authorization. The department shall respond promptly to such requests.

3 A nursing facility admitting an individual without a request for a  
4 department assessment shall not be reimbursed by the department and  
5 shall not be allowed to collect payment from a medicaid eligible  
6 individual for any care rendered before the date the facility makes a  
7 request to the department for an assessment. The date on which a  
8 nursing facility makes a request for a department long-term care  
9 assessment, or the date that nursing home care actually begins,  
10 whichever is later, shall be deemed the effective date of initial  
11 service and payment authorization for admissions regardless of the  
12 source of referral.

13 A medicaid eligible individual residing in a nursing facility who  
14 is transferred to an acute care hospital shall not be required to have  
15 a department assessment under this section prior to returning to the  
16 same or another nursing facility.

17 NEW SECTION. **Sec. 8.** A new section is added to chapter 74.42 RCW  
18 to read as follows:

19 If a nursing facility has reason to know that a resident is likely  
20 to become financially eligible for medicaid benefits within one hundred  
21 eighty days, the nursing facility shall notify the patient or his or  
22 her representative and the department. The department may:

23 (1) Assess any such resident to determine if the resident prefers  
24 and could live appropriately at home or in some other community-based  
25 setting; and

26 (2) Provide case management services to the resident.

27 NEW SECTION. **Sec. 9.** A new section is added to chapter 74.42 RCW  
28 to read as follows:

29 (1) To the extent of available funding, the department shall  
30 provide case management services to assist nursing facility residents,  
31 in conjunction and partnership with nursing facility staff. The  
32 purpose of the case management services is to assist residents and  
33 their families to assess the appropriateness and availability of home  
34 and community services that could meet the resident's needs so that the  
35 resident and family can make informed choices.

36 (2) To the extent of available funding, the department shall  
37 provide case management services to nursing facility residents who are:



- 1 (a) Medicaid funded;
- 2 (b) Dually medicaid and medicare eligible;
- 3 (c) Medicaid applicants; and
- 4 (d) Likely to become financially eligible for medicaid within one
- 5 hundred eighty days, pursuant to section 8 of this act.

6 **Sec. 10.** RCW 74.39.005 and 1989 c 427 s 2 are each amended to read  
7 as follows:

8 The purpose of this chapter is to:

9 (1) Establish a balanced range of (~~community-based~~) health,  
10 social, and supportive services that deliver long-term care services to  
11 chronically, functionally disabled persons of all ages;

12 (2) Ensure that functional (~~disability~~) ability shall be the  
13 determining factor in defining long-term care service needs and that  
14 these needs will be determined by a uniform system for comprehensively  
15 assessing functional disability;

16 (3) Ensure that services are provided in the most independent  
17 living situation consistent with individual needs;

18 (4) Ensure that long-term care service options shall be developed  
19 and made available that enable functionally disabled persons to  
20 continue to live in their homes or other community residential  
21 facilities while in the care of their families or other volunteer  
22 support persons;

23 (5) Ensure that long-term care services are coordinated in a way  
24 that minimizes administrative cost, eliminates unnecessarily complex  
25 organization, minimizes program and service duplication, and maximizes  
26 the use of financial resources in directly meeting the needs of persons  
27 with functional limitations;

28 (6) Develop a systematic plan for the coordination, planning,  
29 budgeting, and administration of long-term care services now fragmented  
30 between the division of developmental disabilities, division of mental  
31 health, aging and adult services administration, division of children  
32 and family services, division of vocational rehabilitation, office on  
33 AIDS, division of health, and bureau of alcohol and substance abuse;

34 (7) Encourage the development of a state-wide long-term care case  
35 management system that effectively coordinates the plan of care and  
36 services provided to eligible clients;

37 (8) Ensure that individuals and organizations affected by or  
38 interested in long-term care programs have an opportunity to

1 participate in identification of needs and priorities, policy  
2 development, planning, and development, implementation, and monitoring  
3 of state supported long-term care programs;

4 (9) Support educational institutions in Washington state to assist  
5 in the procurement of federal support for expanded research and  
6 training in long-term care; and

7 (10) Facilitate the development of a coordinated system of long-  
8 term care education that is clearly articulated between all levels of  
9 higher education and reflective of both in-home care needs and  
10 institutional care needs of functionally disabled persons.

11 **Sec. 11.** RCW 74.39.040 and 1989 c 427 s 13 are each amended to  
12 read as follows:

13 ~~((1) A long term care commission is created. It shall consist of:~~

14 ~~(a) Four legislators who shall serve on the executive committee,~~  
15 ~~one from each of the two largest caucuses in the house of~~  
16 ~~representatives and the senate who shall be selected by the president~~  
17 ~~of the senate and the speaker of the house of representatives;~~

18 ~~(b) Six members, to be selected by the executive committee, who~~  
19 ~~shall be authorities in gerontology, developmental disabilities,~~  
20 ~~neurological impairments, physical disabilities, mental illness,~~  
21 ~~nursing, long term care service delivery, long term care service~~  
22 ~~financing, systems development, or systems analysis;~~

23 ~~(c) Three members, to be selected by the executive committee, who~~  
24 ~~represent long term care consumers, services providers, or advocates;~~

25 ~~(d) Two members, to be selected by the executive committee, who~~  
26 ~~represent county government;~~

27 ~~(e) One member, to be selected by the secretary of social and~~  
28 ~~health services, to represent the department of social and health~~  
29 ~~services long term care programs, including at least developmental~~  
30 ~~disabilities, mental health, aging and adult services, AIDS, children's~~  
31 ~~services, alcohol and substance abuse, and vocational rehabilitation;~~  
32 ~~and~~

33 ~~(f) Two members, to represent the governor, who shall serve on the~~  
34 ~~executive committee.~~

35 ~~The legislative members shall select a chair from the membership of~~  
36 ~~the commission.~~

37 ~~The commission shall be staffed, to the extent possible, by staff~~  
38 ~~from the appropriate senate and house of representatives committees.~~

1       ~~The commission may form technical advisory committees to assist it~~  
2 ~~with any particular matters deemed necessary by the commission.~~

3       ~~The commission and technical advisory committee members shall~~  
4 ~~receive no compensation, but except for publicly funded agency staff,~~  
5 ~~shall, to the extent funds are available, be reimbursed for their~~  
6 ~~expenses while attending any meetings in the same manner as legislators~~  
7 ~~engaged in interim committee business as specified in RCW 44.04.120.~~

8       ~~The commission may receive appropriations, grants, gifts, and other~~  
9 ~~payments from any governmental or other public or private entity or~~  
10 ~~person which it may use to defray the cost of its operations or to~~  
11 ~~contract for technical assistance, with the approval of the senate~~  
12 ~~committee on facilities and operations and the house of representatives~~  
13 ~~executive rules committee.~~

14       ~~(2) The long term care commission shall develop legislation and~~  
15 ~~recommend administrative actions necessary to achieve the following~~  
16 ~~long term care reforms:~~

17       ~~(a) The systematic coordination, planning, budgeting, and~~  
18 ~~administration of long term care services currently administered by the~~  
19 ~~department of social and health services, division of developmental~~  
20 ~~disabilities, aging and adult services administration, division of~~  
21 ~~vocational rehabilitation, office on AIDS, division of health, and the~~  
22 ~~bureau of alcohol and substance abuse;~~

23       ~~(b))~~ The legislature finds the intent of the 1989 legislature to  
24 reform statutory provisions of long-term care for persons of all ages  
25 with chronic functional disability, although not enacted, continues to  
26 be applicable. The need to streamline the current bureaucratic  
27 fragmentation of chronic health services for the person with functional  
28 disabilities and facilitate the development of client centered,  
29 accessible, high quality, cost-effective, and appropriate long-term  
30 care services options for persons with functional disabilities is even  
31 more pressing today. The legislature further finds that if we are  
32 going to meet the significant and growing chronic care needs in the  
33 next two decades, rapid fundamental changes will need to take place in  
34 the way we finance, organize, and provide long-term care services to  
35 the functionally disabled. The public demands, and it is the intent of  
36 the legislature to reduce the cost and size of government and provide  
37 efficient and effective public service to the persons most impaired by  
38 chronic functional disability.

1 To realize the need for a cost-effective, uniform, and fully  
2 integrated long-term care system while simultaneously reducing the size  
3 and cost of government, the legislative budget committee, in  
4 coordination with the Washington health care policy board, shall  
5 develop a working plan for long-term care reform, including  
6 recommendations and statutory changes, by December 12, 1995, to  
7 accomplish the following:

8 (1) Reorganize and consolidate, on a noncategorical basis, all  
9 disease or age-specific (categorical) organizational entities of state  
10 administration and their regional elements pertaining to chronic care  
11 services to persons with functional mental and physical disabilities,  
12 including but not limited to: In the department of social and health  
13 services: Health and rehabilitative services and aging and adult  
14 services; in the department of health: Aids chronic care and boarding  
15 homes; the department of services to the blind; in the department of  
16 veterans affairs: Nursing facilities; and in all other state agencies  
17 that provide chronic long-term health care services;

18 (2) Implement a streamlined client centered administrative and  
19 delivery system for long-term care services state-wide that  
20 incorporates all long-term care services for the person with functional  
21 disabilities to include the functionally disabled, developmentally  
22 disabled, mentally ill, traumatically brain injured, and others with  
23 chronic functional disabilities. The system shall be a single point  
24 entry system administered at the local level that allows the person  
25 with functional disabilities to obtain needs determination, eligibility  
26 screening, priority setting, and services information and assistance.  
27 The system shall be designed so that acute health care services are  
28 effectively coordinated with long-term care services. The system shall  
29 recognize and respect the individuality and dignity of all functionally  
30 disabled individuals and promote self-reliance and the preference for  
31 the assistance and comfort provided by families, friends, and community  
32 volunteers. It shall also recognize the importance of community  
33 organizations and the public and private infrastructure in the delivery  
34 of care and support. All major points of access into the long-term  
35 care system shall be identified and integrated into the system to  
36 insure that clients are fully informed of the most appropriate least  
37 expensive care options;

1        (3) Provision of long-term care services to persons based on their  
2 functional disabilities noncategorically and in the most independent  
3 living situation consistent with the person's needs and preferences;  
4        ~~((e))~~ (4) A consistent definition of appropriate roles and  
5 responsibilities for state and local government, regional  
6 organizations, and private organizations in the planning,  
7 administration, financing, and delivery of long-term care services;  
8        ~~((d))~~ (5) Technical assistance to enable local communities to  
9 have greater participation and control in the planning, administration,  
10 and provision of long-term care services;  
11        ~~((e))~~ (6) A case management system that coordinates an  
12 appropriate and cost-effective plan of care and services for eligible  
13 functionally disabled persons based on their individual needs and  
14 preferences;  
15        ~~((f))~~ (7) A sufficient supply of quality institutional and  
16 noninstitutional residential alternatives for functionally disabled  
17 persons, and supports for the providers of such services;  
18        ~~((g))~~ (8) Public and private alternative funding for long-term  
19 care services, ~~((such as federal Title XIX funding of personal care~~  
20 ~~services through the limited casualty program for the medically needy~~  
21 ~~and other optional services))~~ that includes the promotion of affordable  
22 stand alone long-term care insurance options or as part of overall  
23 health care insurance benefits, a uniform fee copayment scale for  
24 client participation in state-funded, long-term care programs, and  
25 private, long-term care insurance;  
26        ~~((h))~~ (9) A systematic and balanced long-term care services  
27 payment and reimbursement system, including a case mix nursing home  
28 reimbursement, that will provide access to needed services while  
29 controlling the rate of cost increases for such services;  
30        ~~((i))~~ (10) Active involvement of volunteers and advocacy groups;  
31        ~~((j))~~ (11) An integrated data base that provides long-term care  
32 client tracking;  
33        ~~((k))~~ (12) A coordinated education system for long-term care to  
34 insure client safety and quality of services; ~~((and~~  
35 ~~(l))~~ (13) Administratively separate the nonmeans tested economic  
36 and social welfare and advocacy programs of the older Americans act, 42  
37 U.S.C. Chap 35 and 45 C.F.R. 1321 et seq. from the need and means  
38 tested programs for persons with functional disabilities;

1        (14) Review all activities mandated and expenditures authorized by  
2 the senior citizens services act, chapter 74.38 RCW; and identify which  
3 funds are being used for functionally disabled seniors and identify how  
4 these senior citizens services act funds can be directed to programs  
5 serving the most disabled elderly; and

6        (15) Other issues deemed appropriate by the ((implementation team))  
7 joint committee on health systems oversight.

8        The ((commission)) legislative budget committee shall report to the  
9 legislature with its findings, recommendations, and proposed  
10 legislation by December ((1, 1990)) 12, 1995.

11        NEW SECTION. Sec. 12. A new section is added to chapter 74.39A  
12 RCW to read as follows:

13        The department's system of quality improvement for long-term care  
14 services shall be guided by the following principles, consistent with  
15 applicable federal laws and regulations:

16        (1) The system shall be consumer centered and promote privacy,  
17 independence, dignity, choice, and a home or home-like environment for  
18 consumers.

19        (2) The goal of the system is continuous quality improvement with  
20 the focus on consumer satisfaction and outcomes for consumers.

21        (3) Providers should be supported in their efforts to improve  
22 quality through training, technical assistance, and case management.

23        (4) The emphasis should be on problem prevention both in monitoring  
24 and in screening potential providers of service.

25        (5) Monitoring should be outcome based and responsive to consumer  
26 complaints.

27        (6) Providers generally should be assisted in addressing identified  
28 problems initially through consultation and technical assistance.  
29 Enforcement remedies shall be available for problems that are serious,  
30 recurring, or that have been uncorrected.

31        NEW SECTION. Sec. 13. A new section is added to chapter 74.39A  
32 RCW to read as follows:

33        (1) The aging and adult services administration of the department  
34 shall establish and maintain a toll-free telephone number for receiving  
35 complaints regarding a facility that the administration licenses or  
36 with which it contracts for long-term care services.

1 (2) All facilities that are licensed by, or that contract with the  
2 aging and adult services administration to provide long-term care  
3 services shall post in a place and manner clearly visible to residents  
4 and visitors the department's toll-free complaint telephone number.

5 (3) The aging and adult services administration shall investigate  
6 complaints if the subject of the complaint is within its authority  
7 unless the department determines that: (a) The complaint is intended  
8 to willfully harass a licensee or employee of the licensee; (b) there  
9 is no reasonable basis for investigation; or (c) corrective action has  
10 been taken.

11 (4) The aging and adult services administration shall refer  
12 complaints to appropriate state agencies, law enforcement agencies, the  
13 attorney general, the long-term care ombudsman, or other entities if  
14 the department lacks authority to investigate.

15 (5) The department may not provide the substance of the complaint  
16 to the licensee or contractor before the completion of the  
17 investigation by the department. Neither the substance of the  
18 complaint provided to the licensee or contractor nor any copy of the  
19 complaint or related report published, released, or made otherwise  
20 available shall disclose the name, title, or identity of any  
21 complainant, or other person mentioned in the complaint, except that  
22 the department may disclose the identity of the complainant if such  
23 disclosure is requested in writing by the complainant.

24 (6) A facility that provides long-term care services shall not  
25 discriminate or retaliate in any manner against a resident on the basis  
26 or for the reason that such resident or any other person made a  
27 complaint to the department or the long-term care ombudsman or  
28 cooperated with the investigation of such a complaint. The department  
29 may impose a civil penalty of not more than three thousand dollars for  
30 a violation of this subsection and require the facility to mitigate any  
31 damages incurred by the resident.

32 **Sec. 14.** RCW 74.39A.010 and 1993 c 508 s 3 are each amended to  
33 read as follows:

34 (1) To the extent of available funding, the department of social  
35 and health services may contract with licensed boarding homes under  
36 chapter 18.20 RCW and tribally licensed boarding homes for assisted  
37 living services and enhanced adult residential care. The department  
38 shall develop rules for facilities that contract with the department

1 for assisted living services or enhanced adult residential care to  
2 establish:

3 (a) Facility service standards consistent with the principles in  
4 section 12 of this act and consistent with chapter 70.129 RCW;

5 (b) Standards for resident living areas consistent with section 2  
6 of this act;

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

8 (2) The department's rules shall provide that ((ensure that the  
9 contracted)) services in assisted living and enhanced adult residential  
10 care:

11 ~~((+1))~~ (a) Recognize individual needs, privacy, and autonomy;

12 ~~((+2))~~ (b) Include, but not be limited to, personal care, nursing  
13 services, medication administration, and supportive services that  
14 promote independence and self-sufficiency;

15 ~~((+3))~~ (c) Are of sufficient scope to assure that each resident  
16 who chooses to remain in the assisted living or enhanced adult  
17 residential care may do so, ((unless nursing care needs exceed the  
18 level of care defined by the department)) to the extent that the care  
19 provided continues to be cost-effective and safe and promote the most  
20 appropriate level of physical, mental, and psychosocial well-being  
21 consistent with client choice;

22 ~~((+4))~~ (d) Are directed first to those persons most likely, in the  
23 absence of enhanced adult residential care or assisted living services,  
24 to need hospital, nursing facility, or other out-of-home placement; and

25 ~~((+5))~~ (e) Are provided in compliance with applicable ((department  
26 of health)) facility and professional licensing laws and rules.

27 (3) When a facility contracts with the department for assisted  
28 living services or enhanced adult residential care, only services and  
29 facility standards that are provided to or in behalf of the assisted  
30 living services or enhanced adult residential care client shall be  
31 subject to the department's rules.

32 NEW SECTION. Sec. 15. A new section is added to chapter 74.39A  
33 RCW to read as follows:

34 (1) To the extent of available funding, the department of social  
35 and health services may contract for adult residential care and  
36 enhanced adult residential care.



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

4 (a) Facility service standards consistent with the principles in  
5 section 12 of this act and consistent with chapter 70.129 RCW; and

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

7 (3) The department shall, by rule, provide that services in adult  
8 residential care and enhanced adult residential care facilities:

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

10 (b) Include personal care and limited nursing services and other  
11 services that promote independence and self-sufficiency and aging in  
12 place;

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

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

18 (4) When a facility contracts with the department for adult  
19 residential care and enhanced adult residential care, only services and  
20 facility standards that are provided to or in behalf of the adult  
21 residential care or the enhanced adult residential care client shall be  
22 subject to the adult residential care or enhanced adult residential  
23 care rules.

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

30 NEW SECTION. **Sec. 16.** A new section is added to chapter 74.39A  
31 RCW to read as follows:

32 (1) The department shall, by rule, establish reasonable minimum  
33 qualifications and training requirements to assure that assisted living  
34 service, enhanced adult residential care service, and adult residential  
35 care providers with whom the department contracts are capable of  
36 providing services consistent with this chapter. The rules shall apply  
37 only to residential capacity for which the state contracts.

1 (2) The department shall not contract for assisted living, enhanced  
2 adult residential care, or adult residential care services with a  
3 provider if the department finds that the provider or any partner,  
4 officer, director, managerial employee, or owner of five percent or  
5 more of the provider has a history of significant noncompliance with  
6 federal or state regulations, rules, or laws in providing care or  
7 services to vulnerable adults or to children.

8 NEW SECTION. **Sec. 17.** A new section is added to chapter 74.39A  
9 RCW to read as follows:

10 (1) The department is authorized to take one or more of the actions  
11 listed in subsection (2) of this section in any case in which the  
12 department finds that a provider of assisted living services or  
13 enhanced adult residential care services has:

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

16 (b) Operated without a license or under a revoked license;

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

21 (d) Willfully prevented or interfered with any inspection or  
22 investigation by the department.

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

25 (a) Refuse to issue a contract;

26 (b) Impose reasonable conditions on a contract, such as correction  
27 within a specified time, training, and limits on the type of clients  
28 the provider may admit or serve;

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

31 (d) Suspend, revoke, or refuse to renew a contract; or

32 (e) Suspend admissions to the facility by imposing stop placement  
33 on contracted services.

34 (3) When the department orders stop placement, the facility shall  
35 not admit any person admitted by contract until the stop placement  
36 order is terminated. The department may approve readmission of a  
37 resident to the facility from a hospital or nursing home during the  
38 stop placement. The department shall terminate the stop placement

1 when: (a) The violations necessitating the stop placement have been  
2 corrected; and (b) the provider exhibits the capacity to maintain  
3 adequate care and service.

4 (4) Chapter 34.05 RCW applies to department actions under this  
5 section, except that orders of the department imposing contracts  
6 suspension, stop placement, or conditions for continuation of a  
7 contract are effective immediately upon notice and shall continue  
8 pending any hearing.

9 NEW SECTION. **Sec. 18.** A new section is added to chapter 18.20 RCW  
10 to read as follows:

11 (1) The department of health is authorized to take one or more of  
12 the actions listed in subsection (2) of this section in any case in  
13 which the department finds that a boarding home provider has:

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

16 (b) Operated a boarding home without a license or under a revoked  
17 license;

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

22 (d) Willfully prevented or interfered with any inspection or  
23 investigation by the department.

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

26 (a) Refuse to issue a license;

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

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

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

33 (e) Suspend admissions to the boarding home by imposing stop  
34 placement.

35 (3) When the department orders stop placement, the facility shall  
36 not admit any new resident until the stop placement order is  
37 terminated. The department may approve readmission of a resident to  
38 the facility from a hospital or nursing home during the stop placement.

1 The department shall terminate the stop placement when: (a) The  
2 violations necessitating the stop placement have been corrected; and  
3 (b) the provider exhibits the capacity to maintain adequate care and  
4 service.

5 (4) Chapter 34.05 RCW applies to department actions under this  
6 section, except that orders of the department imposing license  
7 suspension, stop placement, or conditions for continuation of a license  
8 are effective immediately upon notice and shall continue pending any  
9 hearing.

10 **Sec. 19.** RCW 70.128.007 and 1989 c 427 s 15 are each amended to  
11 read as follows:

12 The purposes of this chapter are to:

13 (1) Encourage the establishment and maintenance of adult family  
14 homes that provide a humane, safe, and homelike environment for persons  
15 with functional limitations who need personal and special care;

16 (2) Establish standards for regulating adult family homes that  
17 adequately protect residents(~~(, but are consistent with the abilities~~  
18 ~~and resources of an adult family home so as not to discourage~~  
19 ~~individuals from serving as adult family home providers; and));~~

20 (3) Encourage consumers, families, providers, and the public to  
21 become active in assuring their full participation in development of  
22 adult family homes that provide high quality and cost-effective care;

23 (4) Provide for appropriate care of residents in adult family homes  
24 by requiring that each resident have a care plan that promotes the most  
25 appropriate level of physical, mental, and psychosocial well-being  
26 consistent with client choice; and

27 (5) Accord each resident the right to participate in the  
28 development of the care plan and in other major decisions involving the  
29 resident and their care.

30 **Sec. 20.** RCW 70.128.057 and 1991 c 40 s 2 are each amended to read  
31 as follows:

32 Notwithstanding the existence or use of any other remedy, the  
33 department may, in the manner provided by law, upon the advice of the  
34 attorney general who shall represent the department in the proceedings,  
35 maintain an action in the name of the state for an injunction, civil  
36 penalty, or other process against a person to restrain or prevent the

1 operation or maintenance of an adult family home without a license  
2 under this chapter.

3 NEW SECTION. **Sec. 21.** A new section is added to chapter 70.128  
4 RCW to read as follows:

5 The legislature finds that the operation of an adult family home  
6 without a license in violation of this chapter is a matter vitally  
7 affecting the public interest for the purpose of applying the consumer  
8 protection act, chapter 19.86 RCW. Operation of an adult family home  
9 without a license in violation of this chapter is not reasonable in  
10 relation to the development and preservation of business. Such a  
11 violation is an unfair or deceptive act in trade or commerce and an  
12 unfair method of competition for the purpose of applying the consumer  
13 protection act, chapter 19.86 RCW.

14 **Sec. 22.** RCW 70.128.070 and 1989 c 427 s 22 are each amended to  
15 read as follows:

16 (1) A license shall be valid for one year.

17 (2) At least (~~ninety~~) sixty days prior to expiration of the  
18 license, the provider shall submit an application for renewal of a  
19 license. The department shall send the provider an application for  
20 renewal prior to this time. The department shall have the authority to  
21 investigate any information included in the application for renewal of  
22 a license.

23 (3)(a) Homes applying for a license shall be inspected at the time  
24 of licensure.

25 (b) Homes licensed by the department shall be inspected at least  
26 every eighteen months, subject to available funds.

27 (~~(c) ((Licensed homes where a complaint has been received by the~~  
28 ~~department may be inspected at any time.))~~) The department may make an  
29 unannounced inspection of a licensed home at any time to assure that  
30 the home and provider are in compliance with this chapter and the rules  
31 adopted under this chapter.

32 (4) If the department finds that the home is not in compliance with  
33 this chapter, it shall require the home to correct any violations as  
34 provided in this chapter. If the department finds that the home is in  
35 compliance with this chapter and the rules adopted under this chapter,  
36 the department shall renew the license of the home.

1       **Sec. 23.** RCW 70.128.080 and 1989 c 427 s 21 are each amended to  
2 read as follows:

3       An adult family home shall have readily available for review by the  
4 department, residents, and the public:

5       (1) Its license to operate; and

6       (2) A copy of each inspection report received by the home from the  
7 department for the past three years.

8       **Sec. 24.** RCW 70.128.090 and 1989 c 427 s 30 are each amended to  
9 read as follows:

10       (1) During inspections of an adult family home, the department  
11 shall have access and authority to examine areas and articles in the  
12 home used to provide care or support to residents, including residents'  
13 records, accounts, and the physical premises, including the buildings,  
14 grounds, and equipment. The department also shall have the authority  
15 to interview the provider and residents of an adult family home.

16       (2) Whenever an inspection is conducted, the department shall  
17 prepare a written report that summarizes all information obtained  
18 during the inspection, and if the home is in violation of this chapter,  
19 serve a copy of the inspection report upon the provider at the same  
20 time as a notice of violation. If the home is not in violation of this  
21 chapter, a copy of the inspection report shall be mailed to the  
22 provider within ten days of the inspection of the home. All inspection  
23 reports shall be made available to the public at the department during  
24 business hours.

25       ~~(3) ((The inspection report shall describe any corrective measures~~  
26 ~~on the part of the provider necessary to pass a reinspection. If the~~  
27 ~~department finds upon reinspection of the home that the corrective~~  
28 ~~measures have been satisfactorily implemented, the department shall~~  
29 ~~cease any actions taken against the home. Nothing in this section~~  
30 ~~shall require the department to license or renew the license of a home~~  
31 ~~where serious physical harm or death has occurred to a resident)) The~~  
32 ~~provider shall develop corrective measures for any violations found by~~  
33 ~~the department's inspection. The department may provide consultation~~  
34 ~~and technical assistance to assist the provider in developing effective~~  
35 ~~corrective measures. The department shall include a statement of the~~  
36 ~~provider's corrective measures in the department's inspection report.~~

1        NEW SECTION.    **Sec. 25.**    A new section is added to chapter 70.128  
2    RCW to read as follows:

3        The legislature recognizes that adult family homes located within  
4    the boundaries of a federally recognized Indian reservation may be  
5    licensed by the Indian tribe.    The department may pay for care for  
6    persons residing in such homes, if there has been a tribal or state  
7    criminal background check of the provider and any staff, and the client  
8    is otherwise eligible for services administered by the department.

9        **Sec. 26.**    RCW 70.128.140 and 1989 c 427 s 27 are each amended to  
10   read as follows:

11        Each adult family home shall meet applicable local licensing,  
12   zoning, building, and housing codes, and state and local fire safety  
13   regulations as they pertain to a single-family residence.    It is the  
14   responsibility of the home to check with local authorities to ensure  
15   all local codes are met.

16        **Sec. 27.**    RCW 70.128.150 and 1989 c 427 s 28 are each amended to  
17   read as follows:

18        Whenever possible adult family homes are encouraged to contact and  
19   work with local quality assurance projects such as the volunteer  
20   ombudsman with the goal of assuring high quality care is provided in  
21   the home.

22        An adult family home may not willfully interfere with a  
23   representative of the long-term care ombudsman program in the  
24   performance of official duties. The department shall impose a penalty  
25   of not more than one thousand dollars for any such willful  
26   interference.

27        **Sec. 28.**    RCW 70.128.160 and 1989 c 427 s 31 are each amended to  
28   read as follows:

29        (1) The department is authorized to take one or more of the actions  
30   listed in subsection (2) of this section in any case in which the  
31   department finds that an adult family home provider has:

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

34        (b) Operated an adult family home without a license or under a  
35   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; or

16 ~~((e))~~ (e) Suspend admissions to the adult family home by imposing  
17 stop placement.

18 (3) When the department orders stop placement, the facility shall  
19 not admit any person until the stop placement order is terminated. The  
20 department may approve readmission of a resident to the facility from  
21 a hospital or nursing home during the stop placement. The department  
22 shall terminate the stop placement when: (a) The violations  
23 necessitating the stop placement have been corrected; and (b) the  
24 provider exhibits the capacity to maintain adequate care and service.

25 (4) Chapter 34.05 RCW applies to department actions under this  
26 section, except that orders of the department imposing license  
27 suspension, stop placement, or conditions for continuation of a license  
28 are effective immediately upon notice and shall continue in effect  
29 pending any hearing.

30 **Sec. 29.** RCW 70.128.175 and 1989 1st ex.s. c 9 s 815 are each  
31 amended to read as follows:

32 (1) Unless the context clearly requires otherwise, these  
33 definitions shall apply throughout this section and RCW 35.63.140,  
34 35A.63.149, 36.70.755, 35.22.680, and 36.32.560(~~(, and 70.128.180)~~):

35 (a) "Adult family home" means a (~~facility licensed pursuant to~~  
36 ~~chapter 70.128 RCW or the~~) regular family abode of a person or persons  
37 (~~who are~~) providing personal care, special care, room, and board to



1 more than one but not more than six adults who are not related by blood  
2 or marriage to the person or persons providing the services.

3 (b) "Residential care facility" means a facility that cares for at  
4 least five, but not more than fifteen functionally disabled persons,  
5 that is not licensed pursuant to chapter 70.128 RCW.

6 (c) "Department" means the department of social and health  
7 services.

8 (2) An adult family home shall be considered a residential use of  
9 property for zoning purposes. Adult family homes shall be a permitted  
10 use in all areas zoned for residential or commercial purposes,  
11 including areas zoned for single family dwellings.

12 NEW SECTION. Sec. 30. A new section is added to chapter 70.128  
13 RCW to read as follows:

14 (1) The department shall maintain a toll-free telephone number for  
15 receiving complaints regarding adult family homes.

16 (2) An adult family home shall post in a place and manner clearly  
17 visible to residents and visitors the department's toll-free complaint  
18 telephone number.

19 (3) No adult family home shall discriminate or retaliate in any  
20 manner against a resident on the basis or for the reason that such  
21 resident or any other person made a complaint to the department or the  
22 long-term care ombudsman or cooperated with the investigation of such  
23 a complaint.

24 NEW SECTION. Sec. 31. RCW 70.128.180 and 1989 c 427 s 41 are each  
25 repealed.

26 Sec. 32. RCW 43.190.020 and 1991 sp.s. c 8 s 3 are each amended to  
27 read as follows:

28 As used in this chapter, "long-term care facility" means any of the  
29 following (~~which provide services to persons sixty years of age and~~  
30 ~~older and is~~):

31 (1) A facility which:

32 (a) Maintains and operates twenty-four hour skilled nursing  
33 services for the care and treatment of chronically ill or convalescent  
34 patients, including mental, emotional, or behavioral problems, mental  
35 retardation, or alcoholism;

1 (b) Provides supportive, restorative, and preventive health  
2 services in conjunction with a socially oriented program to its  
3 residents, and which maintains and operates twenty-four hour services  
4 including board, room, personal care, and intermittent nursing care.  
5 "Long-term health care facility" includes nursing homes and nursing  
6 facilities, but does not include acute care hospital or other licensed  
7 facilities except for that distinct part of the hospital or facility  
8 which provides nursing facility services.

9 (2) Any family home, group care facility, or similar facility  
10 determined by the secretary, for twenty-four hour nonmedical care of  
11 persons in need of personal services, supervision, or assistance  
12 essential for sustaining the activities of daily living or for the  
13 protection of the individual.

14 (3) Any swing bed in an acute care facility.

15 **Sec. 33.** RCW 43.190.060 and 1987 c 158 s 3 are each amended to  
16 read as follows:

17 A long-term care ombudsman shall:

18 (1) Investigate and resolve complaints made by or on behalf of  
19 (~~elder individuals who are~~) residents of long-term care facilities  
20 relating to administrative action which may adversely affect the  
21 health, safety, welfare, and rights of these individuals;

22 (2) Monitor the development and implementation of federal, state,  
23 and local laws, rules, regulations, and policies with respect to long-  
24 term care facilities in this state;

25 (3) Provide information as appropriate to public agencies regarding  
26 the problems of individuals residing in long-term care facilities; and

27 (4) Provide for training volunteers and promoting the development  
28 of citizen organizations to participate in the ombudsman program. A  
29 volunteer long-term care ombudsman shall be able to identify and  
30 resolve problems regarding the care of residents in long-term care  
31 facilities and to assist such residents in the assertion of their civil  
32 and human rights. However, volunteers shall not be used for complaint  
33 investigations but may engage in fact-finding activities to determine  
34 whether a formal complaint should be submitted to the department.

35 NEW SECTION. **Sec. 34.** RCW 74.08.530, 74.08.560, 74.08.570,  
36 74.08.545, and 74.08.550 are each recodified in chapter 74.39A RCW.

1        NEW SECTION.    **Sec. 35.**    RCW 74.08.541 and 1989 c 427 s 4, 1986 c  
2 222 s 1, 1983 1st ex.s. c 41 s 39, & 1981 1st ex.s. c 6 s 17 are each  
3 repealed.

4        **Sec. 36.**    RCW 74.08.545 and 1989 c 427 s 5 are each amended to read  
5 as follows:

6        It is the intent of the legislature that chore services be provided  
7 to eligible persons within the limits of funds appropriated for that  
8 purpose.    Therefore, the department shall provide services only to  
9 those persons identified as at risk of being placed in a long-term care  
10 facility in the absence of such services.    The department shall not  
11 provide chore services to any individual who is eligible for, and whose  
12 needs can be met by another community service administered by the  
13 department.    Chore services shall be provided to the extent necessary  
14 to maintain a safe and healthful living environment.    It is the policy  
15 of the state to encourage the development of volunteer chore services  
16 in local communities as a means of meeting chore care service needs and  
17 directing financial resources.    In determining eligibility for chore  
18 services, the department shall consider the following:

- 19        (1) The kind of services needed;
- 20        (2) The degree of service need, and the extent to which an  
21 individual is dependent upon such services to remain in his or her home  
22 or return to his or her home;
- 23        (3) The availability of personal or community resources which may  
24 be utilized to meet the individual's need; and
- 25        (4) Such other factors as the department considers necessary to  
26 insure service is provided only to those persons whose chore service  
27 needs cannot be met by relatives, friends, nonprofit organizations,  
28 ((or)) other persons, or by other programs or resources.

29        In determining the level of services to be provided under this  
30 chapter, (({the})) the client shall be assessed using an instrument  
31 designed by the department to determine the level of functional  
32 disability, the need for service and the person's risk of long-term  
33 care facility placement.

34        NEW SECTION.    **Sec. 37.**    A new section is added to chapter 74.39A  
35 RCW to read as follows:

- 36        (1) The department shall establish a monthly dollar lid for each  
37 region on chore services expenditures within the legislative

1 appropriation. Priority for services shall be given to the following  
2 situations:

3 (a) People who were receiving chore personal care services as of  
4 June 30, 1995;

5 (b) People for whom chore personal care services are necessary to  
6 return to the community from a nursing home;

7 (c) People for whom chore personal care services are necessary to  
8 prevent unnecessary nursing home placement; and

9 (d) People for whom chore personal care services are necessary as  
10 a protective measure based on referrals resulting from an adult  
11 protective services investigation.

12 (2) The department shall require a client to participate in the  
13 cost of chore services as a necessary precondition to receiving chore  
14 services paid for by the state. The client shall retain an amount  
15 equal to one hundred percent of the federal poverty level, adjusted for  
16 household size, for maintenance needs. The department shall consider  
17 the remaining income as the client participation amount for chore  
18 services except for those persons whose participation is established  
19 under RCW 74.08.570.

20 (3) The department shall establish, by rule, the maximum amount of  
21 resources a person may retain and be eligible for chore services.

22 NEW SECTION. **Sec. 38.** A new section is added to chapter 74.39A  
23 RCW to read as follows:

24 (1) The legislature intends that any staff reassigned by the  
25 department as a result of shifting of the reauthorization  
26 responsibilities by contract outlined in this section shall be  
27 dedicated for discharge planning and assisting with discharge planning  
28 and information on existing discharge planning cases. Discharge  
29 planning, as directed in this section, is intended for residents and  
30 patients identified for discharge to long-term care pursuant to  
31 sections 5, 6, and 9 of this act. The purpose of discharge planning is  
32 to protect residents and patients from the financial incentives  
33 inherent in keeping residents or patients in a more expensive higher  
34 level of care and shall focus on care options that are in the best  
35 interest of the patient or resident.

36 (2) The department shall contract with area agencies on aging:

37 (a) To provide case management services to individuals receiving  
38 home and community services in their own home; and

1 (b) To reassess and reauthorize home and community services in home  
2 or in other settings for individuals consistent with the intent of this  
3 section:

4 (i) Who have been initially authorized by the department to receive  
5 home and community services; and

6 (ii) Who, at the time of reassessment and reauthorization, are  
7 receiving home and community services in their own home.

8 (3) In the event that an area agency on aging is unwilling to enter  
9 into or satisfactorily fulfill a contract to provide these services,  
10 the department is authorized to:

11 (a) Obtain the services through competitive bid; and

12 (b) Provide the services directly until a qualified contractor can  
13 be found.

14 **Sec. 39.** RCW 74.09.520 and 1994 c 21 s 4 are each amended to read  
15 as follows:

16 (1) The term "medical assistance" may include the following care  
17 and services: (a) Inpatient hospital services; (b) outpatient hospital  
18 services; (c) other laboratory and x-ray services; (d) nursing facility  
19 services; (e) physicians' services, which shall include prescribed  
20 medication and instruction on birth control devices; (f) medical care,  
21 or any other type of remedial care as may be established by the  
22 secretary; (g) home health care services; (h) private duty nursing  
23 services; (i) dental services; (j) physical and occupational therapy  
24 and related services; (k) prescribed drugs, dentures, and prosthetic  
25 devices; and eyeglasses prescribed by a physician skilled in diseases  
26 of the eye or by an optometrist, whichever the individual may select;  
27 (l) personal care services, as provided in this section; (m) hospice  
28 services; (n) other diagnostic, screening, preventive, and  
29 rehabilitative services; and (o) like services when furnished to a  
30 child by a school district in a manner consistent with the requirements  
31 of this chapter. For the purposes of this section, the department may  
32 not cut off any prescription medications, oxygen supplies, respiratory  
33 services, or other life-sustaining medical services or supplies.

34 "Medical assistance," notwithstanding any other provision of law,  
35 shall not include routine foot care, or dental services delivered by  
36 any health care provider, that are not mandated by Title XIX of the  
37 social security act unless there is a specific appropriation for these  
38 services.

1 (2) The department shall amend the state plan for medical  
2 assistance under Title XIX of the federal social security act to  
3 include personal care services, as defined in 42 C.F.R. 440.170(f), in  
4 the categorically needy program.

5 (3) The department shall adopt, amend, or rescind such  
6 administrative rules as are necessary to ensure that Title XIX personal  
7 care services are provided to eligible persons in conformance with  
8 federal regulations.

9 (a) These administrative rules shall include financial eligibility  
10 indexed according to the requirements of the social security act  
11 providing for medicaid eligibility.

12 (b) The rules shall require clients be assessed as having a medical  
13 condition requiring assistance with personal care tasks. Plans of care  
14 must be (~~approved and~~) reviewed by a nurse.

15 (4) The department shall design and implement a means to assess the  
16 level of functional disability of persons eligible for personal care  
17 services under this section. The personal care services benefit shall  
18 be provided to the extent funding is available according to the  
19 assessed level of functional disability. Any reductions in services  
20 made necessary for funding reasons should be accomplished in a manner  
21 that assures that priority for maintaining services is given to persons  
22 with the greatest need as determined by the assessment of functional  
23 disability.

24 (5) The department shall report to the appropriate fiscal  
25 committees of the legislature on the utilization and associated costs  
26 of the personal care option under Title XIX of the federal social  
27 security act, as defined in 42 C.F.R. 440.170(f), in the categorically  
28 needy program. This report shall be submitted by January 1, 1990, and  
29 submitted on a yearly basis thereafter.

30 (6) Effective July 1, 1989, the department shall offer hospice  
31 services in accordance with available funds.

32 (7) For Title XIX personal care services administered by aging and  
33 adult services administration of the department, the department shall  
34 contract with area agencies on aging:

35 (a) To provide case management services to individuals receiving  
36 Title XIX personal care services in their own home; and

37 (b) To reassess and reauthorize Title XIX personal care services or  
38 other home and community services as defined in section 1 of this act

1 in home or in other settings for individuals consistent with the intent  
2 of this section:

3 (i) Who have been initially authorized by the department to receive  
4 Title XIX personal care services or other home and community services  
5 as defined in section 1 of this act; and

6 (ii) Who, at the time of reassessment and reauthorization, are  
7 receiving such services in their own home.

8 (8) In the event that an area agency on aging is unwilling to enter  
9 into or satisfactorily fulfill a contract to provide these services,  
10 the department is authorized to:

11 (a) Obtain the services through competitive bid; and

12 (b) Provide the services directly until a qualified contractor can  
13 be found.

14 **Sec. 40.** RCW 74.08.550 and 1989 c 427 s 6 are each amended to read  
15 as follows:

16 (1) The department is authorized to develop a program to provide  
17 for ~~((those))~~ chore services ~~((enumerated in RCW 74.08.541))~~ under this  
18 chapter.

19 (2) The department may provide assistance in the recruiting of  
20 providers of the services enumerated in ~~((RCW 74.08.541))~~ section 37 of  
21 this act and seek to assure the timely provision of services in  
22 emergency situations.

23 (3) The department shall assure that all providers of the chore  
24 services ~~((enumerated in RCW 74.08.541))~~ under this chapter are  
25 compensated for the delivery of the services on a prompt and regular  
26 basis.

27 **Sec. 41.** RCW 74.08.570 and 1989 c 427 s 7 are each amended to read  
28 as follows:

29 (1) An otherwise eligible disabled person shall not be deemed  
30 ineligible for chore services under this chapter if the person's gross  
31 income from employment, adjusted downward by the cost of the chore  
32 services to be provided and the disabled person's work expenses, does  
33 not exceed the maximum eligibility standard established by the  
34 department for such chore services. The department shall establish a  
35 ~~((sliding scale fee schedule for))~~ methodology for client participation  
36 that allows such disabled persons ~~((, taking into consideration the~~  
37 ~~person's ability to pay and work expenses))~~ to be employed.

1 (2) If a disabled person arranges for chore services through an  
2 individual provider arrangement, the client's contribution shall be  
3 counted as first dollar toward the total amount owed to the provider  
4 for chore services rendered.

5 (3) As used in this section:

6 (a) "Gross income" means total earned wages, commissions, salary,  
7 and any bonus;

8 (b) "Work expenses" includes:

9 (i) Payroll deductions required by law or as a condition of  
10 employment, in amounts actually withheld;

11 (ii) The necessary cost of transportation to and from the place of  
12 employment by the most economical means, except rental cars; and

13 (iii) Expenses of employment necessary for continued employment,  
14 such as tools, materials, union dues, transportation to service  
15 customers if not furnished by the employer, and uniforms and clothing  
16 needed on the job and not suitable for wear away from the job;

17 (c) "Employment" means any work activity for which a recipient  
18 receives monetary compensation;

19 (d) "Disabled" means:

20 (i) Permanently and totally disabled as defined by the department  
21 and as such definition is approved by the federal social security  
22 administration for federal matching funds;

23 (ii) Eighteen years of age or older;

24 (iii) A resident of the state of Washington; and

25 (iv) Willing to submit to such examinations as are deemed necessary  
26 by the department to establish the extent and nature of the disability.

27 **Sec. 42.** RCW 18.51.091 and 1987 c 476 s 24 are each amended to  
28 read as follows:

29 The department shall make or cause to be made at least one  
30 inspection of each nursing home (~~((prior to license renewal and shall  
31 inspect community-based services as part of the licensing renewal  
32 survey))~~ at least every eighteen months, except that the department may  
33 not inspect a facility that was citation-free at the previous  
34 inspection sooner than twelve months after the date of the previous  
35 inspection. The inspection shall be made without providing advance  
36 notice of it. Every inspection may include an inspection of every part  
37 of the premises and an examination of all records, methods of  
38 administration, the general and special dietary and the stores and



1 methods of supply. Those nursing homes that provide community-based  
2 care shall establish and maintain separate and distinct accounting and  
3 other essential records for the purpose of appropriately allocating  
4 costs of the providing of such care: PROVIDED, That such costs shall  
5 not be considered allowable costs for reimbursement purposes under  
6 chapter 74.46 RCW. Following such inspection or inspections, written  
7 notice of any violation of this law or the rules and regulations  
8 promulgated hereunder, shall be given the applicant or licensee and the  
9 department. The notice shall describe the reasons for the facility's  
10 noncompliance. The department may prescribe by regulations that any  
11 licensee or applicant desiring to make specified types of alterations  
12 or additions to its facilities or to construct new facilities shall,  
13 before commencing such alteration, addition or new construction, submit  
14 its plans and specifications therefor to the department for preliminary  
15 inspection and approval or recommendations with respect to compliance  
16 with the regulations and standards herein authorized.

17 **Sec. 43.** RCW 18.51.140 and 1995 c . . . s 6 (Engrossed Substitute  
18 Senate Bill No. 5093) are each amended to read as follows:

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

1 shall notify the chief of the Washington state patrol, through the  
2 director of fire protection, upon completion of any requirements made  
3 by him or her, and the chief of the Washington state patrol, through  
4 the director of fire protection, or his or her deputy, shall make a  
5 reinspection of such premises. Whenever the nursing home to be  
6 licensed meets with the approval of the chief of the Washington state  
7 patrol, through the director of fire protection, he or she shall submit  
8 to the department, a written report approving same with respect to fire  
9 protection before a full license can be issued. The chief of the  
10 Washington state patrol, through the director of fire protection, shall  
11 make or cause to be made inspections of such nursing homes at least  
12 (~~annually~~) every eighteen months.

13 In cities which have in force a comprehensive building code, the  
14 provisions of which are determined by the chief of the Washington state  
15 patrol, through the director of fire protection, to be equal to the  
16 minimum standards of the code for nursing homes adopted by the chief of  
17 the Washington state patrol, through the director of fire protection,  
18 the chief of the fire department, provided the latter is a paid chief  
19 of a paid fire department, shall make the inspection with the chief of  
20 the Washington state patrol, through the director of fire protection,  
21 or his or her deputy and they shall jointly approve the premises before  
22 a full license can be issued.

23 **Sec. 44.** RCW 18.51.300 and 1981 1st ex.s. c 2 s 24 are each  
24 amended to read as follows:

25 Unless specified otherwise by the department, a nursing home shall  
26 retain and preserve all records which relate directly to the care and  
27 treatment of a patient for a period of no less than (~~ten~~) eight years  
28 following the most recent discharge of the patient; except the records  
29 of minors, which shall be retained and preserved for a period of no  
30 less than three years following attainment of the age of eighteen  
31 years, or ten years following such discharge, whichever is longer.

32 If a nursing home ceases operations, it shall make immediate  
33 arrangements, as approved by the department, for preservation of its  
34 records.

35 The department shall by regulation define the type of records and  
36 the information required to be included in the records to be retained  
37 and preserved under this section; which records may be retained in  
38 photographic form pursuant to chapter 5.46 RCW.

1        NEW SECTION.    **Sec. 45.**    A new section is added to chapter 18.88A  
2 RCW to read as follows:

3        The legislature recognizes that nurses have been successfully  
4 delegating nursing care tasks to family members and auxiliary staff for  
5 many years.    The opportunity for a nurse to delegate to nursing  
6 assistants qualifying under section 46 of this act may enhance the  
7 viability and quality of care in community health settings for long-  
8 term care services and to allow citizens to live as independently as  
9 possible with maximum safeguards.

10       NEW SECTION.    **Sec. 46.**    A new section is added to chapter 18.88A  
11 RCW to read as follows:

12        (1) A nurse may delegate specific care tasks to nursing assistants  
13 meeting the requirements of this section and who provide care to  
14 individuals in community residential programs for the developmentally  
15 disabled certified by the department of social and health services  
16 under chapter 71A.12 RCW, to individuals residing in adult family homes  
17 licensed under chapter 70.128 RCW, and to individuals residing in  
18 boarding homes licensed under chapter 18.20 RCW contracting with the  
19 department of social and health services to provide assisted living  
20 services pursuant to RCW 74.39A.010.

21        (2) For the purposes of this section, "nursing assistant" means a  
22 nursing assistant-registered or a nursing assistant-certified. Nothing  
23 in this section may be construed to affect the authority of nurses to  
24 delegate nursing tasks to other persons, including licensed practical  
25 nurses, as authorized by law.

26        (3) Before commencing any specific nursing care tasks authorized  
27 under this chapter, the nursing assistant must (a) provide to the  
28 delegating nurse a certificate of completion issued by the department  
29 of social and health services indicating the completion of basic core  
30 training as provided in this section, (b) be regulated by the  
31 department of health pursuant to this chapter, subject to the uniform  
32 disciplinary act under chapter 18.130 RCW, and (c) meet any additional  
33 training requirements identified by the nursing care quality assurance  
34 commission and authorized by this section.

35        (4) A nurse may delegate the following care tasks:

36        (a) Oral and topical medications and ointments;

37        (b) Nose, ear, eye drops, and ointments;

1 (c) Dressing changes and catheterization using clean techniques as  
2 defined by the nursing care quality assurance commission;

3 (d) Suppositories, enemas, ostomy care;

4 (e) Blood glucose monitoring;

5 (f) Gastrostomy feedings in established and healed condition.

6 (5) On or before September 1, 1995, the nursing care quality  
7 assurance commission, in conjunction with the professional nursing  
8 organizations, shall develop rules for nurse delegation protocols and  
9 by December 5, 1995, identify training beyond the core training that is  
10 deemed necessary for the delegation of complex tasks and patient care.

11 (6) Nursing task delegation protocols are not intended to regulate  
12 the settings in which delegation may occur but are intended to ensure  
13 that nursing care services have a consistent standard of practice upon  
14 which the public and profession may rely and to safeguard the authority  
15 of the nurse to make independent professional decisions regarding the  
16 delegation of a task. Protocols shall include at least the following:

17 (a) Ensure that determination of the appropriateness of delegation  
18 of a nursing task is at the discretion of the nurse;

19 (b) Allow delegation of a nursing care task only for patients who  
20 have a stable and predictable condition. "Stable and predictable  
21 condition" means a situation, as defined by rule by the nursing care  
22 quality assurance commission, in which the patient's clinical and  
23 behavioral status is known and does not require frequent presence and  
24 evaluation of a registered nurse;

25 (c) Assure that the delegations of nursing tasks pursuant to this  
26 chapter have the written informed consent of the patient consistent  
27 with the provisions for informed consent under chapter 7.70 RCW, as  
28 well as with the consent of the delegating nurse and nursing assistant.  
29 The delegating nurse shall inform patients of the level of training of  
30 all care providers in the setting;

31 (d) Verify that the nursing assistant has completed the core  
32 training;

33 (e) Require assessment by the nurse of the ability and willingness  
34 of the nursing assistant to perform the delegated nursing task in the  
35 absence of direct nurse supervision and to refrain from delegation if  
36 the nursing assistant is not able or willing to perform the task;

37 (f) Require the nurse to analyze the complexity of the nursing task  
38 that is considered for delegation and determine the appropriate level

1 of training and any need of additional training for the nursing  
2 assistant;

3 (g) Require the teaching of the nursing care task to the nursing  
4 assistant including return demonstration under observation while  
5 performing the task;

6 (h) Require a plan of nursing supervision and reevaluation of the  
7 delegated nursing task. "Nursing supervision" means that the  
8 registered nurse monitors by direct observation the skill and ability  
9 of the nursing assistant to perform delegated nursing tasks. Frequency  
10 of supervision is at the discretion of the registered nurse but shall  
11 occur at least every sixty days;

12 (i) Require instruction to the nursing assistant that the delegated  
13 nursing task is specific to a patient and is not transferable;

14 (j) Require documentation and written instruction related to the  
15 delegated nursing task be provided to the nursing assistant and a copy  
16 maintained in the patient record;

17 (k) Ensure that the nursing assistant is prepared to effectively  
18 deal with the predictable outcomes of performing the nursing task;

19 (l) Include in the delegation of tasks an awareness of the nature  
20 of the condition requiring treatment, risks of the treatment, side  
21 effects, and interaction of prescribed medications;

22 (m) Require documentation in the patient's record of the rationale  
23 for delegating or not delegating nursing tasks.

24 (7) A basic core training curriculum on providing care for  
25 individuals in community residential programs for the developmentally  
26 disabled certified by the department of social and health services  
27 under chapter 71A.12 RCW shall be in addition to the training  
28 requirements specified in subsection (5) of this section. Basic core  
29 training shall be developed and adopted by rule by the secretary of the  
30 department of social and health services. The department of social and  
31 health services shall appoint an advisory panel to assist in the  
32 development of core training comprised of representatives of the  
33 following:

34 (a) The division of developmental disabilities;

35 (b) The nursing care quality assurance commission;

36 (c) Professional nursing organizations;

37 (d) A state-wide organization of community residential service  
38 providers whose members are programs certified by the department under  
39 chapter 71A.12 RCW.

1 (8) A basic core training curriculum on providing care to residents  
2 in residential settings licensed under chapter 70.128 RCW, or in  
3 assisted living pursuant to RCW 74.39A.010 shall be mandatory for  
4 nursing assistants prior to assessment by a nurse regarding the ability  
5 and willingness to perform a delegated nursing task. Core training  
6 shall be developed and adopted by rule by the secretary of the  
7 department of social and health services, in conjunction with an  
8 advisory panel. The advisory panel shall be comprised of  
9 representatives from, at a minimum, the following:

10 (a) The nursing care quality assurance commission;

11 (b) Professional nurse organizations;

12 (c) A state-wide association of community residential service  
13 providers whose members are programs certified by the department under  
14 chapter 71A.12 RCW;

15 (d) Aging consumer groups;

16 (e) Associations representing homes licensed under chapters 70.128  
17 and 18.20 RCW; and

18 (f) Associations representing home health, hospice, and home care  
19 agencies licensed under chapter 70.127 RCW.

20 NEW SECTION. **Sec. 47.** A new section is added to chapter 18.88A  
21 RCW to read as follows:

22 On or before December 1, 1995, the department of health and the  
23 department of social and health services, in consultation with the  
24 nursing care quality assurance commission, shall develop and clarify  
25 program and reimbursement policies, as well as clarify barriers to  
26 current delegation, relating to the ability and authority of a nurse to  
27 delegate care tasks in the programs and services operating under their  
28 authority.

29 The nursing care quality assurance commission shall develop model  
30 forms that will assist in standardizing the practice of delegation.

31 NEW SECTION. **Sec. 48.** A new section is added to chapter 18.88A  
32 RCW to read as follows:

33 (1) The nurse and nursing assistant shall be accountable for their  
34 own individual actions in the delegation process. Nurses acting within  
35 the protocols of their delegation authority shall be immune from  
36 liability for any action performed in the course of their delegation  
37 duties. Nursing assistants following written delegation instructions

1 from registered nurses performed in the course of their accurately  
2 written, delegated duties shall be immune from liability.

3 (2) No person may coerce a nurse into compromising patient safety  
4 by requiring the nurse to delegate if the nurse determines it is  
5 inappropriate to do so. Nurses shall not be subject to any employer  
6 reprisal or disciplinary action by the Washington nursing care quality  
7 assurance commission for refusing to delegate tasks or refusing to  
8 provide the required training for delegation if the nurse determines  
9 delegation may compromise patient safety. Nursing assistants shall not  
10 be subject to any employer reprisal or disciplinary action by the  
11 nursing care quality assurance commission for refusing to accept  
12 delegation of a nursing task. No community residential program, adult  
13 family home, or boarding home contracting to provide assisted-living  
14 services may discriminate or retaliate in any manner against a person  
15 because the person made a complaint or cooperated in the investigation  
16 of a complaint.

17 (3) The department of social and health services shall impose a  
18 civil fine of not less than two hundred fifty dollars nor more than one  
19 thousand dollars on a community residential program, adult family home,  
20 or boarding home under this act that knowingly permits an employee to  
21 perform a nursing task except as delegated by a nurse pursuant to this  
22 act.

23 NEW SECTION. **Sec. 49.** A new section is added to chapter 18.88A  
24 RCW to read as follows:

25 The aging and adult services administration of the department of  
26 social and health services shall establish a toll-free telephone number  
27 for receiving complaints regarding delegation of specific nursing tasks  
28 to nursing assistants, in conjunction with any other such system  
29 maintained for long-term care services. Complaints specifically  
30 related to nurse-delegation shall be referred to the nursing care  
31 quality assurance commission for appropriate disposition in accordance  
32 with established procedures.

33 **Sec. 50.** RCW 18.79.040 and 1994 sp.s. c 9 s 404 are each amended  
34 to read as follows:

35 (1) "Registered nursing practice" means the performance of acts  
36 requiring substantial specialized knowledge, judgment, and skill based

1 on the principles of the biological, physiological, behavioral, and  
2 sociological sciences in either:

3 (a) The observation, assessment, diagnosis, care or counsel, and  
4 health teaching of the ill, injured, or infirm, or in the maintenance  
5 of health or prevention of illness of others;

6 (b) The performance of such additional acts requiring education and  
7 training and that are recognized by the medical and nursing professions  
8 as proper and recognized by the commission to be performed by  
9 registered nurses licensed under this chapter and that are authorized  
10 by the commission through its rules;

11 (c) The administration, supervision, delegation, and evaluation of  
12 nursing practice. However, nothing in this subsection affects the  
13 authority of a hospital, hospital district, medical clinic, or office,  
14 concerning its administration and supervision;

15 (d) The teaching of nursing;

16 (e) The executing of medical regimen as prescribed by a licensed  
17 physician and surgeon, dentist, osteopathic physician and surgeon,  
18 podiatric physician and surgeon, physician assistant, osteopathic  
19 physician assistant, or advanced registered nurse practitioner.

20 (2) Nothing in this section prohibits a person from practicing a  
21 profession for which a license has been issued under the laws of this  
22 state or specifically authorized by any other law of the state of  
23 Washington.

24 (3) This section does not prohibit (a) the nursing care of the  
25 sick, without compensation, by an unlicensed person who does not hold  
26 himself or herself out to be a registered nurse, ((or)) (b) the  
27 practice of licensed practical nursing by a licensed practical nurse,  
28 or (c) the practice of a nursing assistant, providing delegated nursing  
29 tasks under chapter 18.88A RCW.

30 **Sec. 51.** RCW 18.79.260 and 1995 c 295 s 1 are each amended to read  
31 as follows:

32 A registered nurse under his or her license may perform for  
33 compensation nursing care, as that term is usually understood, of the  
34 ill, injured, or infirm, and in the course thereof, she or he may do  
35 the following things that shall not be done by a person not so  
36 licensed, except as provided in RCW 18.79.270 and section 46 of this  
37 act:



1 (1) At or under the general direction of a licensed physician and  
2 surgeon, dentist, osteopathic physician and surgeon, naturopathic  
3 physician, podiatric physician and surgeon, physician assistant,  
4 osteopathic physician assistant, or advanced registered nurse  
5 practitioner acting within the scope of his or her license, administer  
6 medications, treatments, tests, and inoculations, whether or not the  
7 severing or penetrating of tissues is involved and whether or not a  
8 degree of independent judgment and skill is required. Such direction  
9 must be for acts which are within the scope of registered nursing  
10 practice;

11 (2) Delegate to other persons (~~engaged in nursing,~~) the functions  
12 outlined in subsection (1) of this section in accordance with chapter  
13 18.88A RCW;

14 (3) Instruct nurses in technical subjects pertaining to nursing;

15 (4) Hold herself or himself out to the public or designate herself  
16 or himself as a registered nurse.

17 **Sec. 52.** RCW 18.88A.030 and 1994 sp.s. c 9 s 709 are each amended  
18 to read as follows:

19 (1) A nursing assistant may assist in the care of individuals as  
20 delegated by and under the direction and supervision of a licensed  
21 (registered) nurse or licensed practical nurse.

22 (2) A health care facility shall not assign a nursing assistant-  
23 registered to provide care until the nursing assistant-registered has  
24 demonstrated skills necessary to perform competently all assigned  
25 duties and responsibilities.

26 (3) Nothing in this chapter shall be construed to confer on a  
27 nursing assistant the authority to administer medication unless  
28 delegated as a specific nursing task pursuant to this chapter or to  
29 practice as a licensed (registered) nurse or licensed practical nurse  
30 as defined in chapter 18.79 RCW.

31 (4) Certification is voluntary for nursing assistants working in  
32 health care facilities other than nursing homes unless otherwise  
33 required by state or federal law or regulation.

34 (5) The commission may adopt rules to implement the provisions of  
35 this chapter.

36 NEW SECTION. **Sec. 53.** The secretary of health in consultation  
37 with the Washington nursing care quality assurance commission and the

1 department of social and health services shall monitor the  
2 implementation of sections 45 through 54 of this act and shall make an  
3 interim report by December 31, 1996, and a final report by December 31,  
4 1997, to the legislature with any recommendations for improvements. As  
5 part of the monitoring process, the secretary of health and the  
6 secretary of social and health services, in consultation with the  
7 University of Washington school of nursing, shall conduct a study to be  
8 completed by September 30, 1997, which shall be a part of the final  
9 report to be submitted to the legislature by December 31, 1997. The  
10 study shall include consideration of the protection of health and  
11 safety of persons with developmental disabilities and residents of  
12 adult family homes and boarding homes providing assisted living  
13 services, including the appropriateness of the tasks allowed for  
14 delegation, level and type of training and regulation of nursing  
15 assistants. The report shall include direct observation,  
16 documentation, and interviews, and shall specifically include data on  
17 the following:

- 18 (1) Patient, nurse, and nursing assistant satisfaction;
- 19 (2) Medication errors, including those resulting in  
20 hospitalization;
- 21 (3) Compliance with required training;
- 22 (4) Compliance with nurse delegation protocols;
- 23 (5) Incidence of harm to patients, including abuse and neglect;
- 24 (6) Impact on access to care;
- 25 (7) Impact on patient quality of life; and
- 26 (8) Incidence of coercion in the nurse-delegation process.

27 NEW SECTION. **Sec. 54.** A special legislative task force is  
28 established to monitor implementation of sections 45 through 53 of this  
29 act. The task force shall consist of four members from the house of  
30 representatives, no more than two of whom shall be members of the same  
31 caucus, who shall be appointed by the speaker of the house of  
32 representatives, and four members from the senate, no more than two of  
33 whom shall be members of the same caucus, who shall be appointed by the  
34 president of the senate. The task force shall:

- 35 (1) Review the proposed nurse delegation protocols developed by the  
36 nursing care quality assurance commission;

1 (2) Review the proposed core and specialized training curricula  
2 developed by the department of social and health services and by the  
3 nursing care quality assurance commission;

4 (3) Review the program and reimbursement policies, and the  
5 identified barriers to nurse delegation, developed by the department of  
6 health and department of social and health services;

7 (4) Submit an interim report of its findings and recommendations on  
8 the above actions to the legislature by January 1, 1996;

9 (5) During 1996, conduct hearings to assess the effectiveness with  
10 which the delegation protocols, the core training, and nurse oversight  
11 are being implemented, and their impact on patient care and quality of  
12 life;

13 (6) Review and approve the proposed study designs;

14 (7) By February 1, 1997, recommend to the legislature a mechanism  
15 and time frame for extending nurse delegation provisions similar to  
16 those described in this act to persons residing in their own homes;

17 (8) During 1997, receive interim reports on the findings of the  
18 studies conducted in accordance with this act, and conduct additional  
19 fact-finding hearings on the implementation and impact of the nurse  
20 delegation provisions of sections 45 through 53 of this act.

21 The office of program research and senate committee services shall  
22 provide staff support to the task force. The department of health, the  
23 department of social and health services, and the nursing care quality  
24 assurance commission shall provide technical support as needed. The  
25 task force shall cease to exist on January 1, 1998, unless extended by  
26 act of the legislature.

27 NEW SECTION. **Sec. 55.** A new section is added to chapter 74.39A  
28 RCW to read as follows:

29 (1) A person who receives an asset from an applicant for or  
30 recipient of long-term care services for less than fair market value  
31 shall be subject to a civil fine payable to the department if:

32 (a) The applicant for or recipient of long-term care services  
33 transferred the asset for the purpose of qualifying for state or  
34 federal coverage for long-term care services and the person who  
35 received the asset was aware, or should have been aware, of this  
36 purpose;

37 (b) Such transfer establishes a period of ineligibility for such  
38 service under state or federal laws or regulations; and

1 (c) The department provides coverage for such services during the  
2 period of ineligibility because the failure to provide such coverage  
3 would result in an undue hardship for the applicant or recipient.

4 (2) The civil fine imposed under this section shall be imposed in  
5 a judicial proceeding initiated by the department and shall equal (a)  
6 up to one hundred fifty percent of the amount the department expends  
7 for the care of the applicant or recipient during the period of  
8 ineligibility attributable to the amount transferred to the person  
9 subject to the civil fine plus (b) the department's court costs and  
10 legal fees.

11 (3) Transfers subject to a civil fine under this section shall be  
12 considered null and void and a fraudulent conveyance as to the  
13 department. The department shall have the right to petition a court to  
14 set aside such transfers and require all assets transferred returned to  
15 the applicant or recipient.

16 NEW SECTION. **Sec. 56.** A new section is added to chapter 74.39A  
17 RCW to read as follows:

18 (1) All payments made in state-funded long-term care shall be  
19 recoverable as if they were medical assistance payments subject to  
20 recovery under 42 U.S.C. Sec. 1396p and chapter 43.20B RCW, but without  
21 regard to the recipient's age.

22 (2) In determining eligibility for state-funded long-term care  
23 services programs, the department shall impose the same rules with  
24 respect to the transfer of assets for less than fair market value as  
25 are imposed under 42 U.S.C. 1396p with respect to nursing home and home  
26 and community services.

27 NEW SECTION. **Sec. 57.** A new section is added to chapter 74.39A  
28 RCW to read as follows:

29 Notwithstanding any other provision of law:

30 (1) In order to facilitate and ensure compliance with the federal  
31 social security act, Title XIX, as now existing or hereafter amended,  
32 later enactment to be adopted by reference by the director by rule, and  
33 other state laws mandating recovery of assets from estates of persons  
34 receiving long-term care services, the secretary of the department,  
35 with the approval of the office of the attorney general, may pay the  
36 reasonable and proper fees of attorneys admitted to practice before  
37 courts of this state, and associated professionals such as guardians,

1 who are engaged in probate practice for the purpose of maintaining  
2 actions under Title 11 RCW, to the end that assets are not wasted, but  
3 are rather collected and preserved, and used for the care of the client  
4 or the reimbursement of the department pursuant to this chapter or  
5 chapter 43.20B RCW.

6 (2) The department may hire such other agencies and professionals  
7 on a contingency basis or otherwise as are necessary and cost-effective  
8 to collect bad debts owed to the department for long-term care  
9 services.

10 **Sec. 58.** RCW 11.40.010 and 1994 c 221 s 25 are each amended to  
11 read as follows:

12 Every personal representative shall, after appointment and  
13 qualification, give a notice to the creditors of the deceased, stating  
14 such appointment and qualification as personal representative and  
15 requiring all persons having claims against the deceased to serve the  
16 same on the personal representative or the estate's attorney of record,  
17 and file an executed copy thereof with the clerk of the court, within  
18 four months after the date of the first publication of such notice  
19 described in this section or within four months after the date of the  
20 filing of the copy of such notice with the clerk of the court,  
21 whichever is the later, or within the time otherwise provided in RCW  
22 11.40.013. The four-month time period after the later of the date of  
23 the first publication of the notice to creditors or the date of the  
24 filing of such notice with the clerk of the court is referred to in  
25 this chapter as the "four-month time limitation." Such notice shall be  
26 given as follows:

27 (1) The personal representative shall give actual notice, as  
28 provided in RCW 11.40.013, to such creditors who become known to the  
29 personal representative within such four-month time limitation;

30 (2) The personal representative shall cause such notice to be  
31 published once in each week for three successive weeks in the county in  
32 which the estate is being administered; (~~and~~)

33 (3) The personal representative shall file a copy of such notice  
34 with the clerk of the court; and

35 (4) The personal representative shall mail a copy of the notice,  
36 including the decedent's social security number, to the state of  
37 Washington, department of social and health services, office of  
38 financial recovery.

1 Except as otherwise provided in RCW 11.40.011 or 11.40.013, any  
2 claim not filed within the four-month time limitation shall be forever  
3 barred, if not already barred by any otherwise applicable statute of  
4 limitations. This bar is effective as to claims against both the  
5 decedent's probate assets and nonprobate assets as described in RCW  
6 11.18.200. Proof by affidavit of the giving and publication of such  
7 notice shall be filed with the court by the personal representative.

8 Acts of a notice agent in complying with chapter 221, Laws of 1994  
9 may be adopted and ratified by the personal representative as if done  
10 by the personal representative in complying with this chapter, except  
11 that if at the time of the appointment and qualification of the  
12 personal representative a notice agent had commenced nonprobate notice  
13 to creditors under chapter 11.42 RCW, the personal representative shall  
14 give published notice as provided in RCW 11.42.180.

15 **Sec. 59.** RCW 11.42.020 and 1994 c 221 s 32 are each amended to  
16 read as follows:

17 (1) The notice agent may give nonprobate notice to the creditors of  
18 the decedent if:

19 (a) As of the date of the filing of a copy of the notice with the  
20 clerk of the superior court for the notice county, the notice agent has  
21 no knowledge of the appointment and qualification of a personal  
22 representative in the decedent's estate in the state of Washington or  
23 of another person becoming a notice agent; and

24 (b) According to the records of the clerk of the superior court for  
25 the notice county as of 8:00 a.m. on the date of the filing, no  
26 personal representative of the decedent's estate had been appointed and  
27 qualified and no cause number regarding the decedent had been issued to  
28 any other notice agent by the clerk under RCW 11.42.010.

29 (2) The notice must state that all persons having claims against  
30 the decedent shall: (a) Serve the same on the notice agent if the  
31 notice agent is a resident of the state of Washington upon whom service  
32 of all papers may be made, or on the nonprobate resident agent for the  
33 notice agent, if any, or on the attorneys of record of the notice agent  
34 at their respective address in the state of Washington; and (b) file an  
35 executed copy of the notice with the clerk of the superior court for  
36 the notice county, within: (i)(A) Four months after the date of the  
37 first publication of the notice described in this section; or (B) four  
38 months after the date of the filing of the copy of the notice with the

1 clerk of the superior court for the notice county, whichever is later;  
2 or (ii) the time otherwise provided in RCW 11.42.050. The four-month  
3 time period after the later of the date of the first publication of the  
4 notice to creditors or the date of the filing of the notice with the  
5 clerk of the court is referred to in this chapter as the "four-month  
6 time limitation."

7 (3) The notice agent shall declare in the notice in affidavit form  
8 or under the penalty of perjury under the laws of the state of  
9 Washington as provided in RCW 9A.72.085 that: (a) The notice agent is  
10 entitled to give the nonprobate notice under subsection (1) of this  
11 section; and (b) the notice is being given by the notice agent as  
12 permitted by this section.

13 (4) The notice agent shall sign the notice and file it with the  
14 clerk of the superior court for the notice county. The notice must be  
15 given as follows:

16 (a) The notice agent shall give actual notice as to creditors of  
17 the decedent who become known to the notice agent within the four-month  
18 time limitation as required in RCW 11.42.050;

19 (b) The notice agent shall cause the notice to be published once in  
20 each week for three successive weeks in the notice county; ~~((and))~~

21 (c) The notice agent shall file a copy of the notice with the clerk  
22 of the superior court for the notice county; and

23 (d) The notice agent shall mail a copy of the notice, including the  
24 decedent's social security number, to the state of Washington,  
25 department of social and health services, office of financial recovery.

26 (5) A claim not filed within the four-month time limitation is  
27 forever barred, if not already barred by an otherwise applicable  
28 statute of limitations, except as provided in RCW 11.42.030 or  
29 11.42.050. The bar is effective to bar claims against both the probate  
30 estate of the decedent and nonprobate assets that were subject to  
31 satisfaction of the decedent's general liabilities immediately before  
32 the decedent's death. If a notice to the creditors of a decedent is  
33 published by more than one notice agent and the notice agents are not  
34 acting jointly, the four-month time limitation means the four-month  
35 time limitation that applies to the notice agent who first publishes  
36 the notice. Proof by affidavit or perjury declaration made under RCW  
37 9A.72.085 of the giving and publication of the notice must be filed  
38 with the clerk of the superior court for the notice county by the  
39 notice agent.

1       **Sec. 60.** RCW 11.62.010 and 1993 c 291 s 1 are each amended to read  
2 as follows:

3       (1) At any time after forty days from the date of a decedent's  
4 death, any person who is indebted to or who has possession of any  
5 personal property belonging to the decedent or to the decedent and his  
6 or her surviving spouse as a community, which debt or personal property  
7 is an asset which is subject to probate, shall pay such indebtedness or  
8 deliver such personal property, or so much of either as is claimed, to  
9 a person claiming to be a successor of the decedent upon receipt of  
10 proof of death and of an affidavit made by said person which meets the  
11 requirements of subsection (2) of this section.

12       (2) An affidavit which is to be made pursuant to this section shall  
13 state:

14       (a) The claiming successor's name and address, and that the  
15 claiming successor is a "successor" as defined in RCW 11.62.005;

16       (b) That the decedent was a resident of the state of Washington on  
17 the date of his or her death;

18       (c) That the value of the decedent's entire estate subject to  
19 probate, not including the surviving spouse's community property  
20 interest in any assets which are subject to probate in the decedent's  
21 estate, wherever located, less liens and encumbrances, does not exceed  
22 sixty thousand dollars;

23       (d) That forty days have elapsed since the death of the decedent;

24       (e) That no application or petition for the appointment of a  
25 personal representative is pending or has been granted in any  
26 jurisdiction;

27       (f) That all debts of the decedent including funeral and burial  
28 expenses have been paid or provided for;

29       (g) A description of the personal property and the portion thereof  
30 claimed, together with a statement that such personal property is  
31 subject to probate;

32       (h) That the claiming successor has given written notice, either by  
33 personal service or by mail, identifying his or her claim, and  
34 describing the property claimed, to all other successors of the  
35 decedent, and that at least ten days have elapsed since the service or  
36 mailing of such notice; and

37       (i) That the claiming successor is either personally entitled to  
38 full payment or delivery of the property claimed or is entitled to full



1 payment or delivery thereof on the behalf and with the written  
2 authority of all other successors who have an interest therein.

3 (3) A transfer agent of any security shall change the registered  
4 ownership of the security claimed from the decedent to the person  
5 claiming to be the successor with respect to such security upon the  
6 presentation of proof of death and of an affidavit made by such person  
7 which meets the requirements of subsection (2) of this section. Any  
8 governmental agency required to issue certificates of ownership or of  
9 license registration to personal property shall issue a new certificate  
10 of ownership or of license registration to a person claiming to be a  
11 successor of the decedent upon receipt of proof of death and of an  
12 affidavit made by such person which meets the requirements of  
13 subsection (2) of this section.

14 (4) No release from any Washington state or local taxing authority  
15 may be required before any assets or debts are paid or delivered to a  
16 successor of a decedent as required under this section.

17 (5) A copy of the affidavit, including the decedent's social  
18 security number, shall be mailed to the state of Washington, department  
19 of social and health services, office of financial recovery.

20 **Sec. 61.** RCW 11.28.120 and 1994 c 221 s 23 are each amended to  
21 read as follows:

22 Administration of an estate if the decedent died intestate or if  
23 the personal representative or representatives named in the will  
24 declined or were unable to serve shall be granted to some one or more  
25 of the persons hereinafter mentioned, and they shall be respectively  
26 entitled in the following order:

27 (1) The surviving spouse, or such person as he or she may request  
28 to have appointed.

29 (2) The next of kin in the following order: (a) Child or children;  
30 (b) father or mother; (c) brothers or sisters; (d) grandchildren; (e)  
31 nephews or nieces.

32 (3) The trustee named by the decedent in an inter vivos trust  
33 instrument, testamentary trustee named in the will, guardian of the  
34 person or estate of the decedent, or attorney in fact appointed by the  
35 decedent, if any such a fiduciary controlled or potentially controlled  
36 substantially all of the decedent's probate and nonprobate assets.

37 (4) One or more of the beneficiaries or transferees of the  
38 decedent's probate or nonprobate assets.

1 (5)(a) The director of revenue, or the director's designee, for  
2 those estates having property subject to the provisions of chapter  
3 11.08 RCW; however, the director may waive this right.

4 (b) The secretary of the department of social and health services  
5 for those estates owing debts for long-term care services as defined in  
6 section 1 of this act; however the secretary may waive this right.

7 (6) One or more of the principal creditors.

8 (7) If the persons so entitled shall fail for more than forty days  
9 after the death of the decedent to present a petition for letters of  
10 administration, or if it appears to the satisfaction of the court that  
11 there is no next of kin, as above specified eligible to appointment, or  
12 they waive their right, and there are no principal creditor or  
13 creditors, or such creditor or creditors waive their right, then the  
14 court may appoint any suitable person to administer such estate.

15 **Sec. 62.** RCW 18.39.250 and 1989 c 390 s 3 are each amended to read  
16 as follows:

17 (1) Any funeral establishment selling funeral merchandise or  
18 services by prearrangement funeral service contract and accepting  
19 moneys therefore shall establish and maintain one or more  
20 prearrangement funeral service trusts under Washington state law with  
21 two or more designated trustees, for the benefit of the beneficiary of  
22 the prearrangement funeral service contract or may join with one or  
23 more other Washington state licensed funeral establishments in a  
24 "master trust" provided that each member of the "master trust" shall  
25 comply individually with the requirements of this chapter.

26 (2) Up to ten percent of the cash purchase price of each  
27 prearrangement funeral service contract, excluding sales tax, may be  
28 retained by the funeral establishment unless otherwise provided in this  
29 chapter. If the prearrangement funeral service contract is canceled  
30 within thirty calendar days of its signing, then the purchaser shall  
31 receive a full refund of all moneys paid under the contract.

32 (3) At least ninety percent of the cash purchase price of each  
33 prearrangement funeral service contract, paid in advance, excluding  
34 sales tax, shall be placed in the trust established or utilized by the  
35 funeral establishment. Deposits to the prearrangement funeral service  
36 trust shall be made not later than the twentieth day of the month  
37 following receipt of each payment made on the last ninety percent of  
38 each prearrangement funeral service contract, excluding sales tax.

1 (4) All prearrangement funeral service trust moneys shall be  
2 deposited in an insured account in a qualified public depository or  
3 shall be invested in instruments issued or insured by any agency of the  
4 federal government if these securities are held in a public depository.  
5 The account shall be designated as the prearrangement funeral service  
6 trust of the funeral establishment for the benefit of the beneficiaries  
7 named in the prearrangement funeral service contracts. The  
8 prearrangement funeral service trust shall not be considered as, nor  
9 shall it be used as, an asset of the funeral establishment.

10 (5) After deduction of reasonable fees for the administration of  
11 the trust, taxes paid or withheld, or other expenses of the trust, all  
12 interest, dividends, increases, or accretions of whatever nature earned  
13 by a trust shall be kept unimpaired and shall become a part of the  
14 trust. Adequate records shall be maintained to allocate the share of  
15 principal and interest to each contract. Fees deducted for the  
16 administration of the trust shall not exceed one percent of the face  
17 amount of the prearrangement funeral service contract per annum. In no  
18 instance shall the administrative charges deducted from the  
19 prearrangement funeral service trust reduce, diminish, or in any other  
20 way lessen the value of the trust so that the services or merchandise  
21 provided for under the contract are reduced, diminished, or in any  
22 other way lessened.

23 (6) Except as otherwise provided in this chapter, the trustees of  
24 a prearrangement funeral service trust shall permit withdrawal of all  
25 funds deposited under a prearrangement funeral service contract, plus  
26 accruals thereon, under the following circumstances and conditions:

27 (a) If the funeral establishment files a verified statement with  
28 the trustees that the prearrangement funeral merchandise and services  
29 covered by the contract have been furnished and delivered in accordance  
30 therewith; or

31 (b) If the funeral establishment files a verified statement with  
32 the trustees that the prearrangement funeral merchandise and services  
33 covered by the contract have been canceled in accordance with its  
34 terms.

35 (7) Subsequent to the thirty calendar day cancellation period  
36 provided for in this chapter, any purchaser or beneficiary who has a  
37 revocable prearrangement funeral service contract has the right to  
38 demand a refund of the amount in trust.

1 (8) Prearrangement funeral service contracts which have or should  
2 have an account in a prearrangement funeral service trust may be  
3 terminated by the board if the funeral establishment goes out of  
4 business, becomes insolvent or bankrupt, makes an assignment for the  
5 benefit of creditors, has its prearrangement funeral service  
6 certificate of registration revoked, or for any other reason is unable  
7 to fulfill the obligations under the contract. In such event, or upon  
8 demand by the purchaser or beneficiary of the prearrangement funeral  
9 service contract, the funeral establishment shall refund to the  
10 purchaser or beneficiary all moneys deposited in the trust and  
11 allocated to the contract unless otherwise ordered by a court of  
12 competent jurisdiction. The purchaser or beneficiary may, in lieu of  
13 a refund, elect to transfer the prearrangement funeral service contract  
14 and all amounts in trust to another funeral establishment licensed  
15 under this chapter which will agree, by endorsement to the contract, to  
16 be bound by the contract and to provide the funeral merchandise or  
17 services. Election of this option shall not relieve the defaulting  
18 funeral establishment of its obligation to the purchaser or beneficiary  
19 for any amounts required to be, but not placed, in trust.

20 (9) Prior to the sale or transfer of ownership or control of any  
21 funeral establishment which has contracted for prearrangement funeral  
22 service contracts, any person, corporation, or other legal entity  
23 desiring to acquire such ownership or control shall apply to the  
24 director in accordance with RCW 18.39.145. Persons and business  
25 entities selling or relinquishing, and persons and business entities  
26 purchasing or acquiring ownership or control of such funeral  
27 establishments shall each verify and attest to a report showing the  
28 status of the prearrangement funeral service trust or trusts on the  
29 date of the sale. This report shall be on a form prescribed by the  
30 board and shall be considered part of the application for a funeral  
31 establishment license. In the event of failure to comply with this  
32 subsection, the funeral establishment shall be deemed to have gone out  
33 of business and the provisions of subsection (8) of this section shall  
34 apply.

35 (10) Prearrangement funeral service trust moneys shall not be used,  
36 directly or indirectly, for the benefit of the funeral establishment or  
37 any director, officer, agent, or employee of the funeral establishment  
38 including, but not limited to, any encumbrance, pledge, or other use of

1 prearrangement funeral service trust moneys as collateral or other  
2 security.

3 (11)(a) If, at the time of the signing of the prearrangement  
4 funeral service contract, the beneficiary of the trust is a recipient  
5 of public assistance as defined in RCW 74.04.005, or reasonably  
6 anticipates being so defined, the contract may provide that the trust  
7 will be irrevocable. If after the contract is entered into, the  
8 beneficiary becomes eligible or seeks to become eligible for public  
9 assistance under Title 74 RCW, the contract may provide for an election  
10 by the beneficiary, or by the purchaser on behalf of the beneficiary,  
11 to make the trust irrevocable thereafter in order to become or remain  
12 eligible for such assistance.

13 (b) The department of social and health services shall notify the  
14 trustee of any prearrangement service trust that the department has a  
15 claim on the estate of a beneficiary for long-term care services. Such  
16 notice shall be renewed at least every three years. The trustees upon  
17 becoming aware of the death of a beneficiary shall give notice to the  
18 department of social and health services, office of financial recovery,  
19 who shall file any claim there may be within thirty days of the notice.

20 (12) Every prearrangement funeral service contract financed through  
21 a prearrangement funeral service trust shall contain language which:

22 (a) Informs the purchaser of the prearrangement funeral service  
23 trust and the amount to be deposited in the trust;

24 (b) Indicates if the contract is revocable or not in accordance  
25 with subsection (11) of this section;

26 (c) Specifies that a full refund of all moneys paid on the contract  
27 will be made if the contract is canceled within thirty calendar days of  
28 its signing;

29 (d) Specifies that, in the case of cancellation by a purchaser or  
30 beneficiary eligible to cancel under the contract or under this  
31 chapter, up to ten percent of the contract amount may be retained by  
32 the seller to cover the necessary expenses of selling and setting up  
33 the contract;

34 (e) Identifies the trust to be used and contains information as to  
35 how the trustees may be contacted.

36 **Sec. 63.** RCW 18.39.255 and 1989 c 390 s 4 are each amended to read  
37 as follows:

1       Prearranged funeral service contracts funded through insurance  
2 shall contain language which:

3       (1) States the amount of insurance;

4       (2) Informs the purchaser of the name and address of the insurance  
5 company through which the insurance will be provided, the policy  
6 number, and the name of the beneficiary; ((and))

7       (3) Informs the purchaser that amounts paid for insurance may not  
8 be refundable;

9       (4) Informs that any funds from the policy not used for services  
10 may be subject to a claim for reimbursement for long-term care services  
11 paid for by the state; and

12       (5) States that for purposes of the contract, the procedures in RCW  
13 18.39.250(11)(b) shall control such recoupment.

14       **Sec. 64.** RCW 74.42.450 and 1979 ex.s. c 211 s 45 are each amended  
15 to read as follows:

16       (1) The facility shall admit as residents only those individuals  
17 whose needs can be met by:

18       (a) The facility;

19       (b) The facility cooperating with community resources; or

20       (c) The facility cooperating with other providers of care  
21 affiliated or under contract with the facility.

22       (2) The facility shall transfer a resident to a hospital or other  
23 appropriate facility when a change occurs in the resident's physical or  
24 mental condition that requires care or service that the facility cannot  
25 provide. The resident, the resident's guardian, if any, the resident's  
26 next of kin, the attending physician, and the department shall be  
27 consulted at least fifteen days before a transfer or discharge unless  
28 the resident is transferred under emergency circumstances. The  
29 department shall use casework services or other means to insure that  
30 adequate arrangements are made to meet the resident's needs.

31       (3) A resident shall be transferred or discharged only for medical  
32 reasons, the resident's welfare or request, the welfare of other  
33 residents, or nonpayment. A resident may not be discharged for  
34 nonpayment if the discharge would be prohibited by the medicaid  
35 program.

36       (4) If a resident chooses to remain in the nursing facility, the  
37 department shall respect that choice, provided that if the resident is

1 a medicaid recipient, the resident continues to require a nursing  
2 facility level of care.

3 (5) If the department determines that a resident no longer requires  
4 a nursing facility level of care, the resident shall not be discharged  
5 from the nursing facility until at least thirty days after written  
6 notice is given to the resident, the resident's surrogate decision  
7 maker and, if appropriate, a family member or the resident's  
8 representative. A form for requesting a hearing to appeal the  
9 discharge decision shall be attached to the written notice. The  
10 written notice shall include at least the following:

11 (a) The reason for the discharge;

12 (b) A statement that the resident has the right to appeal the  
13 discharge; and

14 (c) The name, address, and telephone number of the state long-term  
15 care ombudsman.

16 (6) If the resident appeals a department discharge decision, the  
17 resident shall not be discharged without the resident's consent until  
18 at least thirty days after a final order is entered upholding the  
19 decision to discharge the resident.

20 **Sec. 65.** RCW 68.46.050 and 1973 1st ex.s. c 68 s 5 are each  
21 amended to read as follows:

22 (1) A bank, trust company, or savings and loan association  
23 designated as the depository of prearrangement funds shall permit  
24 withdrawal by a cemetery authority of all funds deposited under any  
25 specific prearrangement contract plus interest accrued thereon, under  
26 the following circumstances and conditions:

27 ((+1)) (a) If the cemetery authority files a verified statement  
28 with the depository that the prearrangement merchandise and services  
29 covered by a contract have been furnished and delivered in accordance  
30 therewith; or

31 ((+2)) (b) If the cemetery authority files a verified statement  
32 that a specific prearrangement contract has been canceled in accordance  
33 with its terms.

34 (2) The department of social and health services shall notify the  
35 cemetery authority maintaining a prearrangement trust fund regulated by  
36 this chapter that the department has a claim on the estate of a  
37 beneficiary for long-term care services. Such notice shall be renewed  
38 at least every three years. The cemetery authority upon becoming aware

1 of the death of a beneficiary shall give notice to the department of  
2 social and health services, office of financial recovery, who shall  
3 file any claim there may be within thirty days of the notice.

4 **Sec. 66.** RCW 70.129.040 and 1994 c 214 s 5 are each amended to  
5 read as follows:

6 (1) The resident has the right to manage his or her financial  
7 affairs, and the facility may not require residents to deposit their  
8 personal funds with the facility.

9 (2) Upon written authorization of a resident, if the facility  
10 agrees to manage the resident's personal funds, the facility must hold,  
11 safeguard, manage, and account for the personal funds of the resident  
12 deposited with the facility as specified in this section.

13 ~~((+3))~~ (a) The facility must deposit a resident's personal funds in  
14 excess of one hundred dollars in an interest-bearing account or  
15 accounts that is separate from any of the facility's operating  
16 accounts, and that credits all interest earned on residents' funds to  
17 that account. In pooled accounts, there must be a separate accounting  
18 for each resident's share.

19 (b) The facility must maintain a resident's personal funds that do  
20 not exceed one hundred dollars in a noninterest-bearing account,  
21 interest-bearing account, or petty cash fund.

22 ~~((+4))~~ (3) The facility must establish and maintain a system that  
23 assures a full and complete and separate accounting of each resident's  
24 personal funds entrusted to the facility on the resident's behalf.

25 (a) The system must preclude any commingling of resident funds with  
26 facility funds or with the funds of any person other than another  
27 resident.

28 (b) The individual financial record must be available on request to  
29 the resident or his or her legal representative.

30 ~~((+5))~~ (4) Upon the death of a resident with a personal fund  
31 deposited with the facility the facility must convey within forty-five  
32 days the resident's funds, and a final accounting of those funds, to  
33 the individual or probate jurisdiction administering the resident's  
34 estate; but in the case of a resident who received long-term care  
35 services paid for by the state, the funds and accounting shall be sent  
36 to the state of Washington, department of social and health services,  
37 office of financial recovery. The department shall establish a release  
38 procedure for use for burial expenses.



1       **Sec. 67.** RCW 43.20B.080 and 1994 c 21 s 3 are each amended to read  
2 as follows:

3       (1) The department shall file liens, seek adjustment, or otherwise  
4 effect recovery for medical assistance correctly paid on behalf of an  
5 individual as required by this chapter and 42 U.S.C. Sec. 1396p.

6       (2) Liens may be adjusted by foreclosure in accordance with chapter  
7 61.12 RCW.

8       (3) In the case of an individual who was fifty-five years (~~or~~  
9 ~~{of}~~) of age or older when the individual received medical assistance,  
10 the department shall seek adjustment or recovery from the individual's  
11 estate, and from nonprobate assets of the individual as defined by RCW  
12 11.02.005 except property passing through a community property  
13 agreement, but only for medical assistance consisting of nursing  
14 facility services, home and community-based services, other services  
15 that the department determines to be appropriate, and related hospital  
16 and prescription drug services. Recovery from the individual's estate,  
17 including foreclosure of liens imposed under this section, shall be  
18 undertaken as soon as practicable, consistent with the requirements of  
19 42 U.S.C. Sec. 1396p.

20       (~~(3)~~) (4)(a) The department shall establish procedures consistent  
21 with standards established by the federal department of health and  
22 human services and pursuant to 42 U.S.C. Sec. 1396p to waive recovery  
23 when such recovery would work an undue hardship.

24       (~~(4)~~) (b) Recovery of medical assistance from a recipient's  
25 estate shall not include property made exempt from claims by federal  
26 law or treaty, including exemption for tribal artifacts that may be  
27 held by individual Native Americans.

28       (5) The department is authorized to adopt rules to effect recovery  
29 under this section. The department may adopt by rule later enactments  
30 of the federal laws referenced in this section.

31       **Sec. 68.** RCW 74.42.020 and 1982 c 120 s 1 are each amended to read  
32 as follows:

33       The standards in RCW 74.42.030 through 74.42.570 are the minimum  
34 standards for facilities licensed under chapter 18.51 RCW: PROVIDED,  
35 HOWEVER, That RCW 74.42.040, 74.42.140 through 74.42.280, 74.42.300,  
36 74.42.360, 74.42.370, 74.42.380, 74.42.420 (2), (4), (5), (6) and (7),  
37 74.42.430(3), 74.42.450 (2) and (3), 74.42.520, 74.42.530, 74.42.540,  
38 74.42.570, and 74.42.580 shall not apply to (~~Christian—Science~~

1 ~~sanatoria facilities operated and listed or certified by The First~~  
2 ~~Church of Christ, Scientist, in Boston, Massachusetts))~~ any nursing  
3 home or institution conducted for those who rely upon treatment by  
4 prayer or spiritual means in accordance with the creed or tenets of any  
5 well-recognized church or religious denomination, or for any nursing  
6 home or institution operated for the exclusive care of members of a  
7 convent as defined in RCW 84.36.800 or rectory, monastery, or other  
8 institution operated for the care of members of the clergy.

9 NEW SECTION. **Sec. 69.** A new section is added to chapter 74.46 RCW  
10 to read as follows:

11 Upon the death of a resident with a personal fund deposited with  
12 the facility, the facility must convey within forty-five days the  
13 resident's funds, and a final accounting of those funds, to the  
14 individual or probate jurisdiction administering the resident's estate;  
15 but in the case of a resident who received long-term care services, the  
16 funds and accounting shall be sent to the state of Washington,  
17 department of social and health services, office of financial recovery.  
18 The department shall establish a release procedure for use for burial  
19 expenses.

20 **Sec. 70.** RCW 74.46.450 and 1993 sp.s. c 13 s 9 are each amended to  
21 read as follows:

22 (1) Prospective reimbursement rates for a new contractor will be  
23 established within sixty days following receipt by the department of  
24 the properly completed projected budget required by RCW 74.46.670.  
25 Such reimbursement rates will become effective as of the effective date  
26 of the contract and shall remain in effect until adjusted or reset as  
27 provided in this chapter.

28 (2) Such reimbursement rates will be based on the contractor's  
29 projected cost of operations and on costs and payment rates of the  
30 prior contractor, if any, or of other contractors in comparable  
31 circumstances.

32 (3) For nursing facilities receiving original certificate of need  
33 approval prior to June 30, 1988, and commencing operations on or after  
34 January 1, 1995, the department shall base initial nursing services,  
35 food, administrative, and operational rate components on such component  
36 rates immediately above the median for facilities in the same county.

1 Property and return on investment rate components shall be established  
2 as provided in this chapter.

3 (4) If a properly completed budget is not received at least sixty  
4 days prior to the effective date of the contract, the department will  
5 establish preliminary rates based on the other factors specified in  
6 subsection (2) of this section. These preliminary rates will remain in  
7 effect until adjusted or reset as provided in this chapter.

8 ~~((4))~~ (5) The department is authorized to develop policies and  
9 procedures in rule to address the computation of rates for the first  
10 and second fiscal years of each biennium, including steps necessary to  
11 prorate rate adjustments for economic trends and conditions as  
12 authorized in RCW 74.46.420, for contractors having less than twelve  
13 months of cost report data for the prior calendar year.

14 **Sec. 71.** RCW 70.38.111 and 1993 c 508 s 5 are each amended to read  
15 as follows:

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

18 (a) A health maintenance organization or a combination of health  
19 maintenance organizations if (i) the organization or combination of  
20 organizations has, in the service area of the organization or the  
21 service areas of the organizations in the combination, an enrollment of  
22 at least fifty thousand individuals, (ii) the facility in which the  
23 service will be provided is or will be geographically located so that  
24 the service will be reasonably accessible to such enrolled individuals,  
25 and (iii) at least seventy-five percent of the patients who can  
26 reasonably be expected to receive the tertiary health service will be  
27 individuals enrolled with such organization or organizations in the  
28 combination;

29 (b) A health care facility if (i) the facility primarily provides  
30 or will provide inpatient health services, (ii) the facility is or will  
31 be controlled, directly or indirectly, by a health maintenance  
32 organization or a combination of health maintenance organizations which  
33 has, in the service area of the organization or service areas of the  
34 organizations in the combination, an enrollment of at least fifty  
35 thousand individuals, (iii) the facility is or will be geographically  
36 located so that the service will be reasonably accessible to such  
37 enrolled individuals, and (iv) at least seventy-five percent of the  
38 patients who can reasonably be expected to receive the tertiary health

1 service will be individuals enrolled with such organization or  
2 organizations in the combination; or

3 (c) A health care facility (or portion thereof) if (i) the facility  
4 is or will be leased by a health maintenance organization or  
5 combination of health maintenance organizations which has, in the  
6 service area of the organization or the service areas of the  
7 organizations in the combination, an enrollment of at least fifty  
8 thousand individuals and, on the date the application is submitted  
9 under subsection (2) of this section, at least fifteen years remain in  
10 the term of the lease, (ii) the facility is or will be geographically  
11 located so that the service will be reasonably accessible to such  
12 enrolled individuals, and (iii) 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;  
15 if, with respect to such offering or obligation by a nursing home, the  
16 department has, upon application under subsection (2) of this section,  
17 granted an exemption from such requirement to the organization,  
18 combination of organizations, or facility.

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

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

26 (b) The application contains such information respecting the  
27 organization, combination, or facility and the proposed offering or  
28 obligation by a nursing home as the department may require to determine  
29 if the organization or combination meets the requirements of subsection  
30 (1) of this section or the facility meets or will meet such  
31 requirements; and

32 (c) The department approves such application. The department shall  
33 approve or disapprove an application for exemption within thirty days  
34 of receipt of a completed application. In the case of a proposed  
35 health care facility (or portion thereof) which has not begun to  
36 provide tertiary health services on the date an application is  
37 submitted under this subsection with respect to such facility (or  
38 portion), the facility (or portion) shall meet the applicable  
39 requirements of subsection (1) of this section when the facility first

1 provides such services. The department shall approve an application  
2 submitted under this subsection if it determines that the applicable  
3 requirements of subsection (1) of this section are met.

4 (3) A health care facility (or any part thereof) with respect to  
5 which an exemption was granted under subsection (1) of this section may  
6 not be sold or leased and a controlling interest in such facility or in  
7 a lease of such facility may not be acquired and a health care facility  
8 described in (1)(c) which was granted an exemption under subsection (1)  
9 of this section may not be used by any person other than the lessee  
10 described in (1)(c) unless:

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

13 (b) The department determines, upon application, that (i) the  
14 entity to which the facility is proposed to be sold or leased, which  
15 intends to acquire the controlling interest, or which intends to use  
16 the facility is a health maintenance organization or a combination of  
17 health maintenance organizations which meets the requirements of  
18 (1)(a)(i), and (ii) with respect to such facility, meets the  
19 requirements of (1)(a) (ii) or (iii) or the requirements of (1)(b) (i)  
20 and (ii).

21 (4) In the case of a health maintenance organization, an ambulatory  
22 care facility, or a health care facility, which ambulatory or health  
23 care facility is controlled, directly or indirectly, by a health  
24 maintenance organization or a combination of health maintenance  
25 organizations, the department may under the program apply its  
26 certificate of need requirements only to the offering of inpatient  
27 tertiary health services and then only to the extent that such offering  
28 is not exempt under the provisions of this section.

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

33 (i) Offers services only to contractual members;

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

37 (iii) Contractually assumes responsibility for the cost of services  
38 exceeding the member's financial responsibility under the contract, so  
39 that no third party, with the exception of insurance purchased by the

1 retirement community or its members, but including the medicaid  
2 program, is liable for costs of care even if the member depletes his or  
3 her personal resources;

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

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

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

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

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

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

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

25 (c) The sale, lease, acquisition, or use of part or all of a  
26 continuing care retirement community nursing home that qualifies for  
27 exemption under this subsection shall require prior certificate of need  
28 approval to qualify for licensure as a nursing home unless the  
29 department determines such sale, lease, acquisition, or use is by a  
30 continuing care retirement community that meets the conditions of (a)  
31 of this subsection.

32 (6) A rural hospital, as defined by the department, reducing the  
33 number of licensed beds to become a rural primary care hospital under  
34 the provisions of Part A Title XVIII of the Social Security Act Section  
35 1820, 42 U.S.C., 1395c et seq. may, within three years of the reduction  
36 of beds licensed under chapter 70.41 RCW, increase the number of  
37 licensed beds to no more than the previously licensed number without  
38 being subject to the provisions of this chapter.

1 (7) A rural health care facility licensed under RCW 70.175.100  
2 formerly licensed as a hospital under chapter 70.41 RCW may, within  
3 three years of the effective date of the rural health care facility  
4 license, apply to the department for a hospital license and not be  
5 subject to the requirements of RCW 70.38.105(4)(a) as the construction,  
6 development, or other establishment of a new hospital, provided there  
7 is no increase in the number of beds previously licensed under chapter  
8 70.41 RCW and there is no redistribution in the number of beds used for  
9 acute care or long-term care, the rural health care facility has been  
10 in continuous operation, and the rural health care facility has not  
11 been purchased or leased.

12 (8)(a) A nursing home that voluntarily reduces the number of its  
13 licensed beds to provide assisted living, licensed boarding home care,  
14 adult day care, adult day health, respite care, hospice, outpatient  
15 therapy services, congregate meals, home health, or senior wellness  
16 clinic, or to reduce to one or two the number of beds per room or to  
17 otherwise enhance the quality of life for residents in the nursing  
18 home, may convert the original facility or portion of the facility  
19 back, and thereby increase the number of nursing home beds to no more  
20 than the previously licensed number of nursing home beds without  
21 ((being subject to the provisions of this chapter except under RCW  
22 70.38.105(4)(d)) obtaining a certificate of need under this chapter,  
23 provided the facility has been in continuous operation and has not been  
24 purchased or leased. Any conversion to the original licensed bed  
25 capacity, or to any portion thereof, shall comply with the same life  
26 and safety code requirements as existed at the time the nursing home  
27 voluntarily reduced its licensed beds; unless waivers from such  
28 requirements were issued, in which case the converted beds shall  
29 reflect the conditions or standards that then existed pursuant to the  
30 approved waivers.

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

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

36 (ii) Give notice to the department of health and to the department  
37 of social and health services of the intent to convert beds back. If  
38 construction is required for the conversion of beds back, the notice of  
39 intent to convert beds back must be given no later than two years prior

1 to the effective date of license modification reflecting the restored  
2 beds; otherwise, the notice must be given no later than one year prior  
3 to the effective date of license modification reflecting the restored  
4 beds.

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

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

15 (e) When a building owner has secured an interest in the nursing  
16 home beds, which are intended to be voluntarily reduced by the licensee  
17 under (a) of this subsection, the applicant shall provide the  
18 department with a written statement indicating the building owner's  
19 approval of the bed reduction.

20 **Sec. 72.** RCW 70.38.115 and 1993 c 508 s 6 are each amended to read  
21 as follows:

22 (1) Certificates of need shall be issued, denied, suspended, or  
23 revoked by the designee of the secretary in accord with the provisions  
24 of this chapter and rules of the department which establish review  
25 procedures and criteria for the certificate of need program.

26 (2) Criteria for the review of certificate of need applications,  
27 except as provided in subsection (3) of this section for health  
28 maintenance organizations, shall include but not be limited to  
29 consideration of the following:

30 (a) The need that the population served or to be served by such  
31 services has for such services;

32 (b) The availability of less costly or more effective alternative  
33 methods of providing such services;

34 (c) The financial feasibility and the probable impact of the  
35 proposal on the cost of and charges for providing health services in  
36 the community to be served;

37 (d) In the case of health services to be provided, (i) the  
38 availability of alternative uses of project resources for the provision



1 of other health services, (ii) the extent to which such proposed  
2 services will be accessible to all residents of the area to be served,  
3 and (iii) the need for and the availability in the community of  
4 services and facilities for osteopathic and allopathic physicians and  
5 their patients. The department shall consider the application in terms  
6 of its impact on existing and proposed institutional training programs  
7 for doctors of osteopathy and medicine at the student, internship, and  
8 residency training levels;

9 (e) In the case of a construction project, the costs and methods of  
10 the proposed construction, including the cost and methods of energy  
11 provision, and the probable impact of the construction project reviewed  
12 (i) on the cost of providing health services by the person proposing  
13 such construction project and (ii) on the cost and charges to the  
14 public of providing health services by other persons;

15 (f) The special needs and circumstances of osteopathic hospitals,  
16 nonallopathic services and children's hospitals;

17 (g) Improvements or innovations in the financing and delivery of  
18 health services which foster cost containment and serve to promote  
19 quality assurance and cost-effectiveness;

20 (h) In the case of health services proposed to be provided, the  
21 efficiency and appropriateness of the use of existing services and  
22 facilities similar to those proposed;

23 (i) In the case of existing services or facilities, the quality of  
24 care provided by such services or facilities in the past;

25 (j) In the case of hospital certificate of need applications,  
26 whether the hospital meets or exceeds the regional average level of  
27 charity care, as determined by the secretary; and

28 (k) In the case of nursing home applications:

29 (i) The availability of other nursing home beds in the planning  
30 area to be served; and

31 (ii) The availability of other services in the community to be  
32 served. Data used to determine the availability of other services will  
33 include but not be limited to data provided by the department of social  
34 and health services.

35 (3) A certificate of need application of a health maintenance  
36 organization or a health care facility which is controlled, directly or  
37 indirectly, by a health maintenance organization, shall be approved by  
38 the department if the department finds:

1 (a) Approval of such application is required to meet the needs of  
2 the members of the health maintenance organization and of the new  
3 members which such organization can reasonably be expected to enroll;  
4 and

5 (b) The health maintenance organization is unable to provide,  
6 through services or facilities which can reasonably be expected to be  
7 available to the organization, its health services in a reasonable and  
8 cost-effective manner which is consistent with the basic method of  
9 operation of the organization and which makes such services available  
10 on a long-term basis through physicians and other health professionals  
11 associated with it.

12 A health care facility, or any part thereof, with respect to which  
13 a certificate of need was issued under this subsection may not be sold  
14 or leased and a controlling interest in such facility or in a lease of  
15 such facility may not be acquired unless the department issues a  
16 certificate of need approving the sale, acquisition, or lease.

17 (4) Until the final expiration of the state health plan as provided  
18 under RCW 70.38.919, the decision of the department on a certificate of  
19 need application shall be consistent with the state health plan in  
20 effect, except in emergency circumstances which pose a threat to the  
21 public health. The department in making its final decision may issue  
22 a conditional certificate of need if it finds that the project is  
23 justified only under specific circumstances. The conditions shall  
24 directly relate to the project being reviewed. The conditions may be  
25 released if it can be substantiated that the conditions are no longer  
26 valid and the release of such conditions would be consistent with the  
27 purposes of this chapter.

28 (5) Criteria adopted for review in accordance with subsection (2)  
29 of this section may vary according to the purpose for which the  
30 particular review is being conducted or the type of health service  
31 reviewed.

32 (6) The department shall specify information to be required for  
33 certificate of need applications. Within fifteen days of receipt of  
34 the application, the department shall request additional information  
35 considered necessary to the application or start the review process.  
36 Applicants may decline to submit requested information through written  
37 notice to the department, in which case review starts on the date of  
38 receipt of the notice. Applications may be denied or limited because  
39 of failure to submit required and necessary information.

1 (7) Concurrent review is for the purpose of comparative analysis  
2 and evaluation of competing or similar projects in order to determine  
3 which of the projects may best meet identified needs. Categories of  
4 projects subject to concurrent review include at least new health care  
5 facilities, new services, and expansion of existing health care  
6 facilities. The department shall specify time periods for the  
7 submission of applications for certificates of need subject to  
8 concurrent review, which shall not exceed ninety days. Review of  
9 concurrent applications shall start fifteen days after the conclusion  
10 of the time period for submission of applications subject to concurrent  
11 review. Concurrent review periods shall be limited to one hundred  
12 fifty days, except as provided for in rules adopted by the department  
13 authorizing and limiting amendment during the course of the review, or  
14 for an unresolved pivotal issue declared by the department.

15 (8) Review periods for certificate of need applications other than  
16 those subject to concurrent review shall be limited to ninety days.  
17 Review periods may be extended up to thirty days if needed by a review  
18 agency, and for unresolved pivotal issues the department may extend up  
19 to an additional thirty days. A review may be extended in any case if  
20 the applicant agrees to the extension.

21 (9) The department or its designee, shall conduct a public hearing  
22 on a certificate of need application if requested unless the review is  
23 expedited or subject to emergency review. The department by rule shall  
24 specify the period of time within which a public hearing must be  
25 requested and requirements related to public notice of the hearing,  
26 procedures, recordkeeping and related matters.

27 (10)(a) Any applicant denied a certificate of need or whose  
28 certificate of need has been suspended or revoked has the right to an  
29 adjudicative proceeding. The proceeding is governed by chapter 34.05  
30 RCW, the Administrative Procedure Act.

31 (b) Any health care facility or health maintenance organization  
32 that: (i) Provides services similar to the services provided by the  
33 applicant and under review pursuant to this subsection; (ii) is located  
34 within the applicant's health service area; and (iii) testified or  
35 submitted evidence at a public hearing held pursuant to subsection (9)  
36 of this section, shall be provided an opportunity to present oral or  
37 written testimony and argument in a proceeding under this subsection:  
38 PROVIDED, That the health care facility or health maintenance

1 organization had, in writing, requested to be informed of the  
2 department's decisions.

3 (c) If the department desires to settle with the applicant prior to  
4 the conclusion of the adjudicative proceeding, the department shall so  
5 inform the health care facility or health maintenance organization and  
6 afford them an opportunity to comment, in advance, on the proposed  
7 settlement.

8 (11) An amended certificate of need shall be required for the  
9 following modifications of an approved project:

10 (a) A new service requiring review under this chapter;

11 (b) An expansion of a service subject to review beyond that  
12 originally approved;

13 (c) An increase in bed capacity;

14 (d) A significant reduction in the scope of a nursing home project  
15 without a commensurate reduction in the cost of the nursing home  
16 project, or a cost increase (as represented in bids on a nursing home  
17 construction project or final cost estimates acceptable to the person  
18 to whom the certificate of need was issued) if the total of such  
19 increases exceeds twelve percent or fifty thousand dollars, whichever  
20 is greater, over the maximum capital expenditure approved. The review  
21 of reductions or cost increases shall be restricted to the continued  
22 conformance of the nursing home project with the review criteria  
23 pertaining to financial feasibility and cost containment.

24 (12) An application for a certificate of need for a nursing home  
25 capital expenditure which is determined by the department to be  
26 required to eliminate or prevent imminent safety hazards or correct  
27 violations of applicable licensure and accreditation standards shall be  
28 approved.

29 ~~(13) ((In the case of an application for a certificate of need to~~  
30 ~~replace existing nursing home beds, all criteria must be met on the~~  
31 ~~same basis as an application for a certificate of need for a new~~  
32 ~~nursing home, except that the need criteria shall be deemed met if the~~  
33 ~~applicant is an existing licensee who proposes to replace existing beds~~  
34 ~~that the licensee has operated for at least one year with the same or~~  
35 ~~fewer number of beds in the same planning area))~~ (a) Replacement of  
36 existing nursing home beds in the same planning area by an existing  
37 licensee who has operated the beds for at least one year shall not  
38 require a certificate of need under this chapter. The licensee shall  
39 give written notice of its intent to replace the existing nursing home

1 beds to the department and shall provide the department with  
2 information as may be required pursuant to rule. Replacement of the  
3 beds by a party other than the licensee is subject to certificate of  
4 need review under this chapter, except as otherwise permitted by  
5 subsection (14) of this section.

6 (b) When an entire nursing home ceases operation, ((its beds shall  
7 be treated as existing nursing home beds for purposes of replacement))  
8 the licensee or any other party who has secured an interest in the beds  
9 may reserve his or her interest in the beds for eight years or until a  
10 certificate of need to replace them is issued, whichever occurs first.  
11 However, the nursing home, licensee, or any other party who has secured  
12 an interest in the beds must give notice of its intent to retain the  
13 beds to the department of health no later than thirty days after the  
14 effective date of the facility's closure. Certificate of need review  
15 shall be required for any party who has reserved the nursing home beds  
16 except that the need criteria shall be deemed met when the applicant is  
17 the licensee who had operated the beds for at least one year, who has  
18 operated the beds for at least one year immediately preceding the  
19 reservation of the beds, and who is replacing the beds in the same  
20 planning area.

21 (14) In the event that a licensee, who has provided the department  
22 with notice of his or her intent to replace nursing home beds under  
23 subsection (13)(a) of this section, engages in unprofessional conduct  
24 or becomes unable to practice with reasonable skill and safety by  
25 reason of mental or physical condition, pursuant to chapter 18.130 RCW,  
26 or dies, the building owner shall be permitted to complete the nursing  
27 home bed replacement project, provided the building owner has secured  
28 an interest in the beds.

29 **Sec. 73.** RCW 70.38.125 and 1989 1st ex.s. c 9 s 606 are each  
30 amended to read as follows:

31 (1) A certificate of need shall be valid for two years. One six-  
32 month extension may be made if it can be substantiated that substantial  
33 and continuing progress toward commencement of the project has been  
34 made as defined by regulations to be adopted pursuant to this chapter.  
35 An additional extension of up to sixty months shall be made if the  
36 project is located in an eligible area, as defined under RCW 82.60.020,  
37 or is located in an economically distressed area.

1 (2) A project for which a certificate of need has been issued shall  
2 be commenced during the validity period for the certificate of need.

3 (3) The department shall monitor the approved projects to assure  
4 conformance with certificates of need that have been issued. Rules and  
5 regulations adopted shall specify when changes in the project require  
6 reevaluation of the project. The department may require applicants to  
7 submit periodic progress reports on approved projects or other  
8 information as may be necessary to effectuate its monitoring  
9 responsibilities.

10 (4) The secretary, in the case of a new health facility, shall not  
11 issue any license unless and until a prior certificate of need shall  
12 have been issued by the department for the offering or development of  
13 such new health facility.

14 (5) Any person who engages in any undertaking which requires  
15 certificate of need review without first having received from the  
16 department either a certificate of need or an exception granted in  
17 accordance with this chapter shall be liable to the state in an amount  
18 not to exceed one hundred dollars a day for each day of such  
19 unauthorized offering or development. Such amounts of money shall be  
20 recoverable in an action brought by the attorney general on behalf of  
21 the state in the superior court of any county in which the unauthorized  
22 undertaking occurred. Any amounts of money so recovered by the  
23 attorney general shall be deposited in the state general fund.

24 (6) The department may bring any action to enjoin a violation or  
25 the threatened violation of the provisions of this chapter or any rules  
26 and regulations adopted pursuant to this chapter, or may bring any  
27 legal proceeding authorized by law, including but not limited to the  
28 special proceedings authorized in Title 7 RCW, in the superior court in  
29 the county in which such violation occurs or is about to occur, or in  
30 the superior court of Thurston county.

31 NEW SECTION. **Sec. 74.** If any part of this act is found to be in  
32 conflict with federal requirements that are a prescribed condition to  
33 the allocation of federal funds to the state, the conflicting part of  
34 this act is inoperative solely to the extent of the conflict and with  
35 respect to the agencies directly affected, and this finding does not  
36 affect the operation of the remainder of this act in its application to  
37 the agencies concerned. The rules under this act shall meet federal

1 requirements that are a necessary condition to the receipt of federal  
2 funds by the state.

3 NEW SECTION. **Sec. 75.** The department of social and health  
4 services shall develop and pilot, for eighteen months, an on-line  
5 computer based information system consistent with the information needs  
6 outlined in section 3 of this act. The department shall, by December  
7 1, 1996, report to the appropriations committee of the house of  
8 representatives and the ways and means committee of the senate on the  
9 success of the pilot in meeting the information requirements for  
10 hospitals outlined in this section.

11 **Sec. 76.** RCW 48.85.010 and 1993 c 492 s 458 are each amended to  
12 read as follows:

13 The department of social and health services shall ~~((from July 1,~~  
14 ~~1993, to July 1, 1998))~~, in conjunction with the office of the  
15 insurance commissioner, coordinate a ((pilot)) long-term care insurance  
16 program entitled the Washington long-term care partnership, whereby  
17 private insurance and medicaid funds shall be used to finance long-term  
18 care. ((This program must allow for the exclusion of an individual's  
19 assets, as approved by the federal health care financing  
20 administration, in a determination of the individual's eligibility for  
21 medicaid; the amount of any medicaid payment; or any subsequent  
22 recovery by the state for a payment for medicaid services to the extent  
23 such assets are protected by a long term care insurance policy or  
24 contract governed by chapter 48.84 RCW and meeting the criteria  
25 prescribed in this chapter.)) For individuals purchasing a long-term  
26 care insurance policy or contract governed by chapter 48.84 RCW and  
27 meeting the criteria prescribed in this chapter, and any other terms as  
28 specified by the office of the insurance commissioner and the  
29 department of social and health services, this program shall allow for  
30 the exclusion of some or all of the individual's assets in  
31 determination of medicaid eligibility as approved by the federal health  
32 care financing administration.

33 **Sec. 77.** RCW 48.85.020 and 1993 c 492 s 459 are each amended to  
34 read as follows:

35 The department of social and health services shall seek approval  
36 ~~((and a waiver of appropriate federal medicaid regulations))~~ from the

1 federal health care financing administration to allow the protection of  
2 an individual's assets as provided in this chapter. The department  
3 shall adopt all rules necessary to implement the Washington long-term  
4 care partnership program, which rules shall permit the exclusion of all  
5 or some of an individual's assets in a manner specified by the  
6 department in a determination of medicaid eligibility to the extent  
7 that private long-term care insurance provides payment or benefits for  
8 services ~~((that medicaid would approve or cover for medicaid~~  
9 ~~recipients))~~.

10 **Sec. 78.** RCW 48.85.030 and 1993 c 492 s 460 are each amended to  
11 read as follows:

12 (1) The insurance commissioner shall adopt rules defining the  
13 criteria that long-term care insurance policies must meet to satisfy  
14 the requirements of this chapter. The rules shall provide that all  
15 long-term care insurance policies purchased for the purposes of this  
16 chapter:

17 (a) Be guaranteed renewable;

18 (b) Provide coverage for ~~((home and community-based services and))~~  
19 nursing home care and provide coverage for an alternative plan of care  
20 benefit as defined by the commissioner;

21 (c) Provide optional coverage for home and community-based  
22 services. Such home and community-based services shall be included in  
23 the coverage unless rejected in writing by the applicant;

24 (d) Provide automatic inflation protection or similar coverage for  
25 any policyholder through the age of seventy-nine and made optional at  
26 age eighty to protect the policyholder from future increases in the  
27 cost of long-term care;

28 ~~((d))~~ (e) Not require prior hospitalization or confinement in a  
29 nursing home as a prerequisite to receiving long-term care benefits;  
30 and

31 ~~((e))~~ (f) Contain at least a six-month grace period that permits  
32 reinstatement of the policy or contract retroactive to the date of  
33 termination if the policy or contract holder's nonpayment of premiums  
34 arose as a result of a cognitive impairment suffered by the policy or  
35 contract holder as certified by a physician.

36 (2) Insurers offering long-term care policies for the purposes of  
37 this chapter shall demonstrate to the satisfaction of the insurance  
38 commissioner that they:



1 (a) Have procedures to provide notice to each purchaser of the  
2 long-term care consumer education program;  
3 (b) Offer case management services;  
4 (c) Have procedures that provide for the keeping of individual  
5 policy records and procedures for the explanation of coverage and  
6 benefits identifying those payments or services available under the  
7 policy that meet the purposes of this chapter;  
8 (d) Agree to provide the insurance commissioner, on or before  
9 September 1 of each year, an annual report containing (~~the following~~)  
10 information(~~:~~  
11 ~~(i) The number of policies issued and of the policies issued, that~~  
12 ~~number sorted by issue age;~~  
13 ~~(ii) To the extent possible, the financial circumstance of the~~  
14 ~~individuals covered by such policies;~~  
15 ~~(iii) The total number of claims paid; and~~  
16 ~~(iv) Of the number of claims paid, the number paid for nursing home~~  
17 ~~care, for home care services, and community-based services)) derived~~  
18 ~~from the long-term care partnership long-term care insurance uniform~~  
19 ~~data set as specified by the office of the insurance commissioner.~~

20 **Sec. 79.** RCW 48.85.040 and 1993 c 492 s 461 are each amended to  
21 read as follows:

22 The insurance commissioner(~~, in conjunction with~~) shall, with the  
23 cooperation of the department of social and health services and members  
24 of the long-term care insurance industry, (~~shall~~) develop a consumer  
25 education program designed to educate consumers as to the need for  
26 long-term care, methods for financing long-term care, the availability  
27 of long-term care insurance, and the availability and eligibility  
28 requirements of the asset protection program provided under this  
29 chapter.

30 **Sec. 80.** RCW 48.85.050 and 1993 c 492 s 462 are each amended to  
31 read as follows:

32 By January 1 of each year until 1998, the insurance commissioner,  
33 in conjunction with the department of social and health services, shall  
34 report to the legislature on the progress of the asset protection  
35 program. The report shall include:

36 (1) The success of the agencies in implementing the program;

1 (2) The number of insurers offering long-term care policies meeting  
2 the criteria for asset protection;

3 (3) The number, age, and financial circumstances of individuals  
4 purchasing long-term care policies meeting the criteria for asset  
5 protection;

6 (4) The number of individuals seeking consumer information  
7 services;

8 (5) The extent and type of benefits paid by insurers offering  
9 policies meeting the criteria for asset protection;

10 (6) Estimates of the impact of the program on present and future  
11 medicaid expenditures;

12 (7) The cost-effectiveness of the program; and

13 (8) A determination regarding the appropriateness of continuing the  
14 program.

15 **Sec. 81.** RCW 74.09.585 and 1989 c 87 s 7 are each amended to read  
16 as follows:

17 (1) The department shall establish standards consistent with  
18 section 1917 of the social security act in determining the period of  
19 ineligibility for medical assistance due to the transfer of resources.

20 (2) There shall be no penalty imposed for the transfer of assets  
21 that are excluded in a determination of the individual's eligibility  
22 for medicaid to the extent such assets are protected by the long-term  
23 care insurance policy or contract pursuant to chapter 48.85 RCW.

24 (3) The department may waive a period of ineligibility if the  
25 department determines that denial of eligibility would work an undue  
26 hardship.

27 **Sec. 82.** RCW 74.34.010 and 1984 c 97 s 7 are each amended to read  
28 as follows:

29 The legislature finds that frail elders and vulnerable adults may  
30 be subjected to abuse, neglect, exploitation, or abandonment. The  
31 legislature finds that there are a number of adults sixty years of age  
32 or older who lack the ability to perform or obtain those services  
33 necessary to maintain or establish their well-being. The legislature  
34 finds that many frail elders and vulnerable adults have health problems  
35 that place them in a dependent position. The legislature further finds  
36 that a significant number of frail elders and vulnerable adults have

1 mental and verbal limitations that leave them vulnerable and incapable  
2 of asking for help and protection.

3 It is the intent of the legislature to prevent or remedy the abuse,  
4 neglect, exploitation, or abandonment of persons sixty years of age or  
5 older who have a functional, mental, or physical inability to care for  
6 or protect themselves.

7 It is the intent of the legislature to assist frail elders and  
8 vulnerable adults by providing these persons with the protection of the  
9 courts and with the least-restrictive services, such as home care, and  
10 by preventing or reducing inappropriate institutional care. The  
11 legislature finds that it is in the interests of the public health,  
12 safety, and welfare of the people of the state to provide a procedure  
13 for identifying these vulnerable persons and providing the services and  
14 remedies necessary for their well-being.

15 **Sec. 83.** RCW 74.34.100 and 1986 c 187 s 4 are each amended to read  
16 as follows:

17 The legislature finds that frail elders and vulnerable adults~~((7))~~  
18 ~~who are ((physically or emotionally))~~ abused, neglected, abandoned, or  
19 ~~((financially))~~ exploited may need the protection of the courts. The  
20 legislature further finds that many of these elderly or vulnerable  
21 persons may be homebound or otherwise may be unable to represent  
22 themselves in court or to retain legal counsel in order to obtain the  
23 relief available to them under this chapter.

24 It is the intent of the legislature to improve access to the courts  
25 for victims of abuse, neglect, exploitation, and abandonment in order  
26 to better protect the state's frail elderly and vulnerable adults.

27 **Sec. 84.** RCW 74.34.020 and 1984 c 97 s 8 are each amended to read  
28 as follows:

29 Unless the context clearly requires otherwise, the definitions in  
30 this section apply throughout this chapter.

31 (1) "Abandonment" means ~~((leaving a))~~ action or inaction by a  
32 person or entity with a duty of care for a frail elder or a vulnerable  
33 adult that leaves the vulnerable ~~((adult))~~ person without the means or  
34 ability to obtain necessary food, clothing, shelter, or health care.

35 (2) "Abuse" means ~~((an))~~ a nonaccidental act of physical or mental  
36 mistreatment or injury, or sexual mistreatment, which harms ~~((or~~  
37 ~~threatens))~~ a person through action or inaction by another individual.

1 (3) "Consent" means express written consent granted after the  
2 person has been fully informed of the nature of the services to be  
3 offered and that the receipt of services is voluntary.

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

6 (5) "Exploitation" means the illegal or improper use of a frail  
7 elder or vulnerable adult or that ~~((adult's))~~ person's income or  
8 resources, including trust funds, for another person's profit or  
9 advantage.

10 (6) "Neglect" means a pattern of conduct ~~((resulting))~~ or inaction  
11 by a person or entity with a duty of care for a frail elder or  
12 vulnerable adult that results in the deprivation of care necessary to  
13 maintain ((minimum)) the vulnerable person's physical ((and)) or mental  
14 health.

15 (7) "Secretary" means the secretary of social and health services.

16 (8) "Frail elder or vulnerable adult" means a person sixty years of  
17 age or older who has the functional, mental, or physical inability to  
18 care for himself or herself. "Frail elder or vulnerable adult" shall  
19 include persons found incapacitated under chapter 11.88 RCW, or a  
20 person who has a developmental disability under chapter 71A.10 RCW, and  
21 persons admitted to any long-term care facility that is licensed or  
22 required to be licensed under chapter 18.20, 18.51, 72.36, or 70.128  
23 RCW, or persons receiving services from home health, hospice, or home  
24 care agencies licensed or required to be licensed under chapter 70.127  
25 RCW.

26 NEW SECTION. Sec. 85. A new section is added to chapter 74.34 RCW  
27 to read as follows:

28 (1) In addition to other remedies available under the law, a frail  
29 elder or vulnerable adult or a person age eighteen or older who has  
30 been subjected to abuse, neglect, exploitation, or abandonment either  
31 while residing in a long-term care facility or in the case of a person  
32 in the care of a home health, hospice, or home care agency, residing at  
33 home, shall have a cause of action for damages on account of his or her  
34 injuries, pain and suffering, and loss of property sustained thereby.  
35 This action shall be available where the defendant is or was a  
36 corporation, trust, unincorporated association, partnership,  
37 administrator, employee, agent, officer, partner, or director of a  
38 long-term care facility, such as a nursing home or boarding home, that

1 is licensed or required to be licensed under chapter 18.20, 18.51,  
2 72.36, or 70.128 RCW, or of a home health, hospice, or home care agency  
3 licensed or required to be licensed under chapter 70.127 RCW, as now or  
4 subsequently designated.

5 (2) It is the intent of the legislature, however, that where there  
6 is a dispute about the care or treatment of a frail elder or vulnerable  
7 adult, the parties should use the least formal means available to try  
8 to resolve the dispute. Where feasible, parties are encouraged but not  
9 mandated to employ direct discussion with the health care provider, use  
10 of the long-term care ombudsman or other intermediaries, and, when  
11 necessary, recourse through licensing or other regulatory authorities.

12 (3) In an action brought under this section, a prevailing plaintiff  
13 shall be awarded his or her actual damages, together with the costs of  
14 the suit, including a reasonable attorney's fee. The term "costs"  
15 includes, but is not limited to, the reasonable fees for a guardian,  
16 guardian ad litem, and experts, if any, that may be necessary to the  
17 litigation of a claim brought under this section.

18 NEW SECTION. **Sec. 86.** A new section is added to chapter 74.34 RCW  
19 to read as follows:

20 A petition for an order for protection or an action for damages  
21 under this chapter may be brought by the plaintiff, or where necessary,  
22 by his or her family members and/or guardian or legal fiduciary, or as  
23 otherwise provided under this chapter. The death of the plaintiff  
24 shall not deprive the court of jurisdiction over a petition or claim  
25 brought under this chapter. Upon petition, after the death of the  
26 vulnerable person, the right to initiate or maintain the action shall  
27 be transferred to the executor or administrator of the deceased, for  
28 the benefit of the surviving spouse, child or children, or other heirs  
29 set forth in chapter 4.20 RCW.

30 **Sec. 87.** RCW 74.34.070 and 1984 c 97 s 13 are each amended to read  
31 as follows:

32 In responding to reports of abuse, exploitation, neglect, or  
33 abandonment under this chapter, the department shall provide  
34 information to the (~~elderly person~~) frail elder or vulnerable adult  
35 on protective services available to the person and inform the person of  
36 the right to refuse such services. The department shall develop  
37 cooperative agreements with community-based agencies servicing the

1 abused elderly and vulnerable adults. The agreements shall cover such  
2 subjects as the appropriate roles and responsibilities of the  
3 department and community-based agencies in identifying and responding  
4 to reports of ((elderly)) abuse, the provision of case-management  
5 services, standardized data collection procedures, and related  
6 coordination activities.

7 **Sec. 88.** RCW 74.34.030 and 1986 c 187 s 1 are each amended to read  
8 as follows:

9 Any person, including but not limited to, financial institutions or  
10 attorneys, having reasonable cause to believe that a vulnerable adult  
11 has suffered abuse, exploitation, neglect, or abandonment, or is  
12 otherwise in need of protective services may report such information to  
13 the department. Any police officer, social worker, employee of the  
14 department, a social service, welfare, mental health, or health agency,  
15 including but not limited to home health, hospice, and home care  
16 agencies licensed under chapter 70.127 RCW, congregate long-term care  
17 facility, including but not limited to adult family homes licensed  
18 under chapter 70.128 RCW, boarding homes licensed under chapter 18.20  
19 RCW, and nursing homes licensed under chapter 18.51 RCW, or assisted  
20 living services pursuant to RCW 74.39A.010, or health care provider  
21 licensed under Title 18 RCW, including but not limited to doctors,  
22 nurses, psychologists, and pharmacists, having reasonable cause to  
23 believe that a vulnerable adult has suffered abuse, exploitation,  
24 neglect, or abandonment, shall make an immediate oral report of such  
25 information to the department and shall report such information in  
26 writing to the department within ten calendar days of receiving the  
27 information.

28 NEW SECTION. **Sec. 89.** RCW 74.34.100 is recodified as RCW  
29 74.34.015.

30 **Sec. 90.** RCW 74.46.020 and 1993 sp.s. c 13 s 1 are each amended to  
31 read as follows:

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

34 (1) "Accrual method of accounting" means a method of accounting in  
35 which revenues are reported in the period when they are earned,

1 regardless of when they are collected, and expenses are reported in the  
2 period in which they are incurred, regardless of when they are paid.

3 (2) "Ancillary care" means those services required by the  
4 individual, comprehensive plan of care provided by qualified  
5 therapists.

6 (3) "Appraisal" means the process of estimating the fair market  
7 value or reconstructing the historical cost of an asset acquired in a  
8 past period as performed by a professionally designated real estate  
9 appraiser with no pecuniary interest in the property to be appraised.  
10 It includes a systematic, analytic determination and the recording and  
11 analyzing of property facts, rights, investments, and values based on  
12 a personal inspection and inventory of the property.

13 (4) "Arm's-length transaction" means a transaction resulting from  
14 good-faith bargaining between a buyer and seller who are not related  
15 organizations and have adverse positions in the market place. Sales or  
16 exchanges of nursing home facilities among two or more parties in which  
17 all parties subsequently continue to own one or more of the facilities  
18 involved in the transactions shall not be considered as arm's-length  
19 transactions for purposes of this chapter. Sale of a nursing home  
20 facility which is subsequently leased back to the seller within five  
21 years of the date of sale shall not be considered as an arm's-length  
22 transaction for purposes of this chapter.

23 (5) "Assets" means economic resources of the contractor, recognized  
24 and measured in conformity with generally accepted accounting  
25 principles.

26 (6) "Bad debts" means amounts considered to be uncollectable from  
27 accounts and notes receivable.

28 (7) "Beds" means the number of set-up beds in the facility, not to  
29 exceed the number of licensed beds.

30 (8) "Beneficial owner" means:

31 (a) Any person who, directly or indirectly, through any contract,  
32 arrangement, understanding, relationship, or otherwise has or shares:

33 (i) Voting power which includes the power to vote, or to direct the  
34 voting of such ownership interest; and/or

35 (ii) Investment power which includes the power to dispose, or to  
36 direct the disposition of such ownership interest;

37 (b) Any person who, directly or indirectly, creates or uses a  
38 trust, proxy, power of attorney, pooling arrangement, or any other  
39 contract, arrangement, or device with the purpose or effect of

1 divesting himself of beneficial ownership of an ownership interest or  
2 preventing the vesting of such beneficial ownership as part of a plan  
3 or scheme to evade the reporting requirements of this chapter;

4 (c) Any person who, subject to subparagraph (b) of this subsection,  
5 has the right to acquire beneficial ownership of such ownership  
6 interest within sixty days, including but not limited to any right to  
7 acquire:

8 (i) Through the exercise of any option, warrant, or right;

9 (ii) Through the conversion of an ownership interest;

10 (iii) Pursuant to the power to revoke a trust, discretionary  
11 account, or similar arrangement; or

12 (iv) Pursuant to the automatic termination of a trust,  
13 discretionary account, or similar arrangement;

14 except that, any person who acquires an ownership interest or power  
15 specified in subparagraphs (i), (ii), or (iii) of this subparagraph (c)  
16 with the purpose or effect of changing or influencing the control of  
17 the contractor, or in connection with or as a participant in any  
18 transaction having such purpose or effect, immediately upon such  
19 acquisition shall be deemed to be the beneficial owner of the ownership  
20 interest which may be acquired through the exercise or conversion of  
21 such ownership interest or power;

22 (d) Any person who in the ordinary course of business is a pledgee  
23 of ownership interest under a written pledge agreement shall not be  
24 deemed to be the beneficial owner of such pledged ownership interest  
25 until the pledgee has taken all formal steps necessary which are  
26 required to declare a default and determines that the power to vote or  
27 to direct the vote or to dispose or to direct the disposition of such  
28 pledged ownership interest will be exercised; except that:

29 (i) The pledgee agreement is bona fide and was not entered into  
30 with the purpose nor with the effect of changing or influencing the  
31 control of the contractor, nor in connection with any transaction  
32 having such purpose or effect, including persons meeting the conditions  
33 set forth in subparagraph (b) of this subsection; and

34 (ii) The pledgee agreement, prior to default, does not grant to the  
35 pledgee:

36 (A) The power to vote or to direct the vote of the pledged  
37 ownership interest; or

38 (B) The power to dispose or direct the disposition of the pledged  
39 ownership interest, other than the grant of such power(s) pursuant to



1 a pledge agreement under which credit is extended and in which the  
2 pledgee is a broker or dealer.

3 (9) "Capitalization" means the recording of an expenditure as an  
4 asset.

5 (10) "Contractor" means an entity which contracts with the  
6 department to provide services to medical care recipients in a facility  
7 and which entity is responsible for operational decisions.

8 (11) "Department" means the department of social and health  
9 services (DSHS) and its employees.

10 (12) "Depreciation" means the systematic distribution of the cost  
11 or other basis of tangible assets, less salvage, over the estimated  
12 useful life of the assets.

13 (13) "Direct care supplies" means medical, pharmaceutical, and  
14 other supplies required for the direct nursing and ancillary care of  
15 medical care recipients.

16 (14) "Entity" means an individual, partnership, corporation, or any  
17 other association of individuals capable of entering enforceable  
18 contracts.

19 (15) "Equity" means the net book value of all tangible and  
20 intangible assets less the recorded value of all liabilities, as  
21 recognized and measured in conformity with generally accepted  
22 accounting principles.

23 (16) "Facility" means a nursing home licensed in accordance with  
24 chapter 18.51 RCW, excepting nursing homes certified as institutions  
25 for mental diseases, or that portion of a hospital licensed in  
26 accordance with chapter 70.41 RCW which operates as a nursing home.

27 (17) "Fair market value" means the replacement cost of an asset  
28 less observed physical depreciation on the date for which the market  
29 value is being determined.

30 (18) "Financial statements" means statements prepared and presented  
31 in conformity with generally accepted accounting principles including,  
32 but not limited to, balance sheet, statement of operations, statement  
33 of changes in financial position, and related notes.

34 (19) "Generally accepted accounting principles" means accounting  
35 principles approved by the financial accounting standards board (FASB).

36 (20) "Generally accepted auditing standards" means auditing  
37 standards approved by the American institute of certified public  
38 accountants (AICPA).

1 (21) "Goodwill" means the excess of the price paid for a business  
2 over the fair market value of all other identifiable, tangible, and  
3 intangible assets acquired.

4 (22) "Historical cost" means the actual cost incurred in acquiring  
5 and preparing an asset for use, including feasibility studies,  
6 architect's fees, and engineering studies.

7 (23) "Imprest fund" means a fund which is regularly replenished in  
8 exactly the amount expended from it.

9 (24) "Joint facility costs" means any costs which represent  
10 resources which benefit more than one facility, or one facility and any  
11 other entity.

12 (25) "Lease agreement" means a contract between two parties for the  
13 possession and use of real or personal property or assets for a  
14 specified period of time in exchange for specified periodic payments.  
15 Elimination (due to any cause other than death or divorce) or addition  
16 of any party to the contract, expiration, or modification of any lease  
17 term in effect on January 1, 1980, or termination of the lease by  
18 either party by any means shall constitute a termination of the lease  
19 agreement. An extension or renewal of a lease agreement, whether or  
20 not pursuant to a renewal provision in the lease agreement, shall be  
21 considered a new lease agreement. A strictly formal change in the  
22 lease agreement which modifies the method, frequency, or manner in  
23 which the lease payments are made, but does not increase the total  
24 lease payment obligation of the lessee, shall not be considered  
25 modification of a lease term.

26 (26) "Medical care program" means medical assistance provided under  
27 RCW 74.09.500 or authorized state medical care services.

28 (27) "Medical care recipient" or "recipient" means an individual  
29 determined eligible by the department for the services provided in  
30 chapter 74.09 RCW.

31 (28) "Net book value" means the historical cost of an asset less  
32 accumulated depreciation.

33 (29) "Net invested funds" means the net book value of tangible  
34 fixed assets employed by a contractor to provide services under the  
35 medical care program, including land, buildings, and equipment as  
36 recognized and measured in conformity with generally accepted  
37 accounting principles, plus an allowance for working capital which  
38 shall be five percent of the product of the per patient day rate

1 multiplied by the prior calendar year reported total patient days of  
2 each contractor.

3 (30) "Operating lease" means a lease under which rental or lease  
4 expenses are included in current expenses in accordance with generally  
5 accepted accounting principles.

6 (31) "Owner" means a sole proprietor, general or limited partners,  
7 and beneficial interest holders of five percent or more of a  
8 corporation's outstanding stock.

9 (32) "Ownership interest" means all interests beneficially owned by  
10 a person, calculated in the aggregate, regardless of the form which  
11 such beneficial ownership takes.

12 (33) "Patient day" or "~~((client))~~ resident day" means a calendar  
13 day of care provided to a nursing facility resident, which will include  
14 the day of admission and exclude the day of discharge; except that,  
15 when admission and discharge occur on the same day, one day of care  
16 shall be deemed to exist. A "client day" or "recipient day" means a  
17 calendar day of care provided to a medical care recipient determined  
18 eligible by the department for services provided under chapter 74.09  
19 RCW, subject to the same conditions regarding admission and discharge  
20 applicable to a patient day or resident day of care.

21 (34) "Professionally designated real estate appraiser" means an  
22 individual who is regularly engaged in the business of providing real  
23 estate valuation services for a fee, and who is deemed qualified by a  
24 nationally recognized real estate appraisal educational organization on  
25 the basis of extensive practical appraisal experience, including the  
26 writing of real estate valuation reports as well as the passing of  
27 written examinations on valuation practice and theory, and who by  
28 virtue of membership in such organization is required to subscribe and  
29 adhere to certain standards of professional practice as such  
30 organization prescribes.

31 (35) "Qualified therapist" means:

32 (a) An activities specialist who has specialized education,  
33 training, or experience as specified by the department;

34 (b) An audiologist who is eligible for a certificate of clinical  
35 competence in audiology or who has the equivalent education and  
36 clinical experience;

37 (c) A mental health professional as defined by chapter 71.05 RCW;

38 (d) A mental retardation professional who is either a qualified  
39 therapist or a therapist approved by the department who has had

1 specialized training or one year's experience in treating or working  
2 with the mentally retarded or developmentally disabled;

3 (e) A social worker who is a graduate of a school of social work;

4 (f) A speech pathologist who is eligible for a certificate of  
5 clinical competence in speech pathology or who has the equivalent  
6 education and clinical experience;

7 (g) A physical therapist as defined by chapter 18.74 RCW;

8 (h) An occupational therapist who is a graduate of a program in  
9 occupational therapy, or who has the equivalent of such education or  
10 training; and

11 (i) A respiratory care practitioner certified under chapter 18.89  
12 RCW.

13 (36) "Questioned costs" means those costs which have been  
14 determined in accordance with generally accepted accounting principles  
15 but which may constitute disallowed costs or departures from the  
16 provisions of this chapter or rules and regulations adopted by the  
17 department.

18 (37) "Rebased rate" or "cost-rebased rate" means a facility-  
19 specific rate assigned to a nursing facility for a particular rate  
20 period established on desk-reviewed, adjusted costs reported for that  
21 facility covering at least six months of a prior calendar year.

22 (38) "Records" means those data supporting all financial statements  
23 and cost reports including, but not limited to, all general and  
24 subsidiary ledgers, books of original entry, and transaction  
25 documentation, however such data are maintained.

26 (~~(38)~~) (39) "Related organization" means an entity which is under  
27 common ownership and/or control with, or has control of, or is  
28 controlled by, the contractor.

29 (a) "Common ownership" exists when an entity is the beneficial  
30 owner of five percent or more ownership interest in the contractor and  
31 any other entity.

32 (b) "Control" exists where an entity has the power, directly or  
33 indirectly, significantly to influence or direct the actions or  
34 policies of an organization or institution, whether or not it is  
35 legally enforceable and however it is exercisable or exercised.

36 (~~(39)~~) (40) "Restricted fund" means those funds the principal  
37 and/or income of which is limited by agreement with or direction of the  
38 donor to a specific purpose.

1       (~~(40)~~) (41) "Secretary" means the secretary of the department of  
2 social and health services.

3       (~~(41)~~) (42) "Title XIX" or "Medicaid" means the 1965 amendments  
4 to the social security act, P.L. 89-07, as amended.

5       (~~(42)~~) (43) "Physical plant capital improvement" means a  
6 capitalized improvement that is limited to an improvement to the  
7 building or the related physical plant.

8       **Sec. 91.** RCW 74.46.105 and 1985 c 361 s 10 are each amended to  
9 read as follows:

10       Cost reports and patient trust accounts of contractors shall be  
11 field audited by the department, either by department staff or by  
12 auditors under contract to the department, in accordance with the  
13 provisions of this chapter. The department when it deems necessary to  
14 assure the accuracy of cost reports may review any underlying financial  
15 statements or other records upon which the cost reports are based. The  
16 department shall have the authority to accept or reject audits which  
17 fail to satisfy the requirements of this section or which are performed  
18 by auditors who violate any of the rules of this section. Department  
19 audits of the cost reports and patient trust accounts shall be  
20 conducted as follows:

21       (1) Each year the department will provide for field audit of the  
22 cost report, statistical reports, and patient trust funds, as  
23 established by RCW 74.46.700, of all or a sample of reporting  
24 facilities selected by profiles of costs, exceptions, contract  
25 terminations, upon special requests or other factors determined by the  
26 department.

27       (2) Beginning with audits for calendar year (~~(1983, up to one~~  
28 ~~hundred percent of contractors cost reports and patient care trust fund~~  
29 ~~accounts shall be audited: PROVIDED, That each contractor shall be~~  
30 ~~audited at least once in every three year period)) 1993, contractors'  
31 cost reports and resident care trust fund accounts shall be audited  
32 periodically as determined necessary by the department.~~

33       (3) Facilities (~~(shall be selected for sample audits within one~~  
34 ~~hundred twenty days of submission of a correct and complete cost~~  
35 ~~report, and)) shall be (~~(so))~~) informed of the department's intent to  
36 audit at least ten working days before the commencement of an audit of  
37 a facility's cost report or resident trust fund accounts. (~~(Audits so~~  
38 ~~scheduled shall be completed within one year of selection.))~~)~~

1 (4) Where an audit for a recent reporting or trust fund period  
2 discloses material discrepancies, undocumented costs or mishandling of  
3 patient trust funds, auditors may examine prior unaudited periods, for  
4 indication of similar material discrepancies, undocumented costs or  
5 mishandling of patient trust funds for not more than two reporting  
6 periods preceding the facility reporting period selected in the sample.

7 (5) The audit will result in a schedule summarizing appropriate  
8 adjustments to the contractor's cost report. These adjustments will  
9 include an explanation for the adjustment, the general ledger account  
10 or account group, and the dollar amount. Patient trust fund audits  
11 shall be reported separately and in accordance with RCW 74.46.700.

12 (6) Audits shall meet generally accepted auditing standards as  
13 promulgated by the American institute of certified public accountants  
14 and the standards for audit of governmental organizations, programs,  
15 activities and functions as published by the comptroller general of the  
16 United States. Audits shall be supervised or reviewed by a certified  
17 public accountant.

18 (7) No auditor under contract with or employed by the department to  
19 perform audits in accordance with the provisions of this chapter shall:

20 (a) Have had direct or indirect financial interest in the  
21 ownership, financing or operation of a nursing home in this state  
22 during the period covered by the audits;

23 (b) Acquire or commit to acquire any direct or indirect financial  
24 interest in the ownership, financing or operation of a nursing home in  
25 this state during said auditor's employment or contract with the  
26 department;

27 (c) Accept as a client any nursing home in this state during or  
28 within two years of termination of said auditor's contract or  
29 employment with the department.

30 (8) Audits shall be conducted by auditors who are otherwise  
31 independent as determined by the standards of independence established  
32 by the American institute of certified public accountants.

33 (9) All audit rules adopted after March 31, 1984, shall be  
34 published before the beginning of the cost report year to which they  
35 apply.

36 **Sec. 92.** RCW 74.46.115 and 1983 1st ex.s. c 67 s 6 are each  
37 amended to read as follows:

1       The office of the state auditor shall (~~annually~~) at least once in  
2 every three state fiscal years commencing July 1, 1995, review the  
3 performance of the department to ensure that departmental audits are  
4 conducted in accordance with generally accepted (~~accounting principles~~  
5 ~~and~~) auditing standards.

6       **Sec. 93.** RCW 74.46.160 and 1985 c 361 s 12 are each amended to  
7 read as follows:

8       (1) Within one hundred twenty days after receipt of the proposed  
9 preliminary settlement, the department shall verify the accuracy of the  
10 proposal and shall issue a preliminary settlement report by cost center  
11 to the contractor which fully substantiates disallowed costs, refunds,  
12 underpayments, or adjustments to the proposed preliminary settlement.

13       (2) After completion of the audit process, including exhaustion or  
14 mutual termination of (~~reviews and~~) any administrative appeals (~~of~~)  
15 or exception procedure used by the contractor to contest audit findings  
16 or determinations, but not including any judicial review available to  
17 and commenced by the contractor, the department will submit a final  
18 settlement report by cost center to the contractor which fully  
19 substantiates disallowed costs, refunds, underpayments, or adjustments  
20 to the contractor's cost report. (~~Where the contractor is pursuing~~  
21 ~~judicial or administrative review or appeal in good faith regarding~~  
22 ~~audit findings or determinations, the department may issue a partial~~  
23 ~~final settlement to recover overpayments based on audit adjustments not~~  
24 ~~in dispute.))~~

25       **Sec. 94.** RCW 74.46.170 and 1983 1st ex.s. c 67 s 10 are each  
26 amended to read as follows:

27       (1) A contractor shall have (~~thirty~~) a period of days, to be  
28 established by the department in rule, after the date the preliminary  
29 or final settlement report is submitted to the contractor to contest a  
30 settlement determination under the administrative appeals or exception  
31 procedure established by the department pursuant to RCW 74.46.780. Any  
32 such administrative review of a settlement shall be limited to  
33 calculation of the settlement or the application of settlement  
34 principles and rules, or both, and shall not examine or reexamine  
35 payment rate or audit issues. After the (~~thirty-day~~) period  
36 established by the department in rule has expired, a preliminary or  
37 final settlement will not be subject to review.

1 (2) A preliminary settlement report as issued by the department  
2 will become the final settlement report if no audit has been scheduled  
3 within twelve calendar months following the department's issuance of a  
4 preliminary settlement report to the contractor.

5 (3) A settlement will be reopened if necessary to make adjustments  
6 for findings resulting from an audit performed pursuant to RCW  
7 74.46.105(4).

8 **Sec. 95.** RCW 74.46.180 and 1993 sp.s. c 13 s 2 are each amended to  
9 read as follows:

10 (1) The ~~((state))~~ department shall make payment of any  
11 underpayments to which a contractor is entitled as determined by the  
12 department under the provisions of this chapter within ~~((thirty))~~ sixty  
13 days after the date the preliminary or final settlement report is  
14 submitted to the contractor and the department shall pay interest at  
15 the rate of one percent per month on any unpaid preliminary or final  
16 settlement balance still due the contractor after such time, accruing  
17 from sixty days after the preliminary or final settlement report is  
18 submitted to the contractor, and no interest shall accrue or be paid  
19 for any period prior to this date: PROVIDED, That any increase in a  
20 preliminary or final settlement amount due the contractor resulting  
21 from a final administrative or judicial decision shall also bear  
22 interest until paid at the rate of one percent per month, accruing from  
23 sixty days after the preliminary or final settlement was submitted to  
24 the contractor. The department shall pay no interest on amounts due a  
25 contractor other than amounts determined by preliminary or final  
26 settlement as provided in this subsection.

27 (2) A contractor found, under a preliminary or final settlement  
28 issued by the department, to have received either overpayments or  
29 erroneous payments ~~((under a preliminary or final settlement))~~, to  
30 which the contractor is not entitled as determined by the department  
31 under the provisions of this chapter, shall refund such erroneous  
32 payments or overpayments to the ~~((state))~~ department within ~~((thirty))~~  
33 sixty days after the date the preliminary or final settlement report is  
34 submitted to the contractor, subject to the provisions of subsections  
35 (3), (4), and ~~((+7))~~ (6) of this section, PROVIDED, That for all  
36 preliminary or final settlements issued on and after July 1, 1995,  
37 regardless of what period a settlement covers, neither a timely filed  
38 request to pursue the department's administrative appeals or exception



1 procedure nor commencement of judicial review, as may be available to  
2 the contractor in law, contesting the settlement, erroneous payments or  
3 overpayments shall delay recovery. A contractor shall pay interest at  
4 the rate of one percent per month on any unpaid preliminary or final  
5 settlement balance still due the department sixty days after the  
6 preliminary or final settlement report is submitted to the contractor,  
7 accruing from this date: PROVIDED Further, That the department shall  
8 refund interest collected for preliminary and settlement amounts the  
9 contractor was entitled to retain as subsequently determined by final  
10 administrative or judicial decision.

11 (3) Within the cost centers of nursing services and food, all  
12 savings resulting from the respective allowable costs being lower than  
13 the respective reimbursement rate paid to the contractor during the  
14 report period shall be refunded to the department. However, in  
15 computing a preliminary or final settlement, savings in a cost center  
16 may be shifted to cover a deficit in another cost center up to the  
17 amount of any savings. Not more than twenty percent of the rate in a  
18 cost center may be shifted into that cost center and no shifting may be  
19 made into the property cost center. There shall be no shifting out of  
20 nursing services, and savings in food shall be shifted only to cover  
21 deficits in the nursing services cost center. There shall be no  
22 shifting from the operational to the administrative cost center.

23 (4) Within the administrative and property cost centers, the  
24 contractor shall retain at least fifty percent, but not more than  
25 seventy-five percent, of any savings resulting from the respective  
26 audited allowable costs being lower than the respective reimbursement  
27 rates paid to the contractor during the report period multiplied by the  
28 number of authorized medical care client days in which said rates were  
29 in effect, except that no savings may be retained if reported costs in  
30 the administrative and property cost centers exceed audited allowable  
31 costs in these cost areas by a total of ten cents or more per patient  
32 day. The secretary, by rule, shall establish the basis for the  
33 specific percentages of savings to the contractors. Such rules may  
34 provide for differences in the percentages allowed for each cost center  
35 to individual facilities based on performance measures related to  
36 administrative efficiency.

37 (5) All return on investment rate payments provided by RCW  
38 74.46.530 shall be retained by the contractor to the extent net  
39 invested funds are substantiated by department field audit. Any

1 industrial insurance dividend or premium discount under RCW 51.16.035  
2 shall be retained by the contractor to the extent that such dividend or  
3 premium discount is attributable to the contractor's private patients.

4 (6) In the event the contractor fails to make repayment in the time  
5 provided in subsection (2) of this section, the department shall  
6 either:

7 (a) Deduct the amount of refund due the department, plus any  
8 interest accrued under ~~((RCW 43.20B.695))~~ subsection (2) of this  
9 section, from payment amounts due the contractor; or

10 (b) In the instance the contract has been terminated, (i) deduct  
11 the amount of refund due the department, plus interest assessed at the  
12 rate and in the manner provided in ~~((RCW 43.20B.695))~~ subsection (2) of  
13 this section, from any payments due; or (ii) recover the amount due,  
14 plus any interest assessed under ~~((RCW 43.20B.695,))~~ subsection (2) of  
15 this section from security posted with or otherwise obtained by the  
16 department or by any other lawful means.

17 ~~((Where the facility is pursuing timely filed judicial or~~  
18 ~~administrative remedies in good faith regarding settlement issues, the~~  
19 ~~contractor need not refund nor shall the department withhold from the~~  
20 ~~facility current payment amounts the department claims to be due from~~  
21 ~~the facility but which are specifically disputed by the contractor.))~~  
22 For all erroneous payments and overpayments determined by preliminary  
23 or final settlements issued before July 1, 1995, and not yet recovered  
24 by the department because they are specifically disputed by the  
25 contractor in a timely filed administrative or judicial review, if the  
26 judicial or administrative remedy sought by the facility is not granted  
27 after all appeals are exhausted or mutually terminated, the facility  
28 shall make payment of such amounts due plus interest accrued from the  
29 date of filing of the appeal, as payable on judgments, within sixty  
30 days of the date such decision is made.

31 **Sec. 96.** RCW 74.46.190 and 1983 1st ex.s. c 67 s 12 are each  
32 amended to read as follows:

33 (1) The substance of a transaction will prevail over its form.

34 (2) All documented costs which are ordinary, necessary, related to  
35 care of medical care recipients, and not expressly unallowable, are to  
36 be allowable. Costs of providing ancillary care are allowable, subject  
37 to any applicable cost center limit contained in this chapter, provided  
38 documentation establishes the costs were incurred for medical care

1 recipients and other sources of payment to which recipients may be  
2 legally entitled, such as private insurance or medicare, were first  
3 fully utilized.

4 (3) Costs applicable to services, facilities, and supplies  
5 furnished to the provider by related organizations are allowable but at  
6 the cost to the related organization, provided they do not exceed the  
7 price of comparable services, facilities, or supplies that could be  
8 purchased elsewhere.

9 (4) Beginning January 1, 1985, the payment for property usage is to  
10 be independent of ownership structure and financing arrangements.

11 (5) Beginning July 1, 1995, allowable costs shall not include costs  
12 reported by a nursing care provider for a prior period to the extent  
13 such costs, due to statutory exemption, will not be incurred by the  
14 nursing facility in the period to be covered by the rate.

15 **Sec. 97.** RCW 74.46.410 and 1993 sp.s. c 13 s 6 are each amended to  
16 read as follows:

17 (1) Costs will be unallowable if they are not documented,  
18 necessary, ordinary, and related to the provision of care services to  
19 authorized patients.

20 (2) Unallowable costs include, but are not limited to, the  
21 following:

22 (a) Costs of items or services not covered by the medical care  
23 program. Costs of such items or services will be unallowable even if  
24 they are indirectly reimbursed by the department as the result of an  
25 authorized reduction in patient contribution;

26 (b) Costs of services and items provided to recipients which are  
27 covered by the department's medical care program but not included in  
28 care services established by the department under this chapter;

29 (c) Costs associated with a capital expenditure subject to section  
30 1122 approval (part 100, Title 42 C.F.R.) if the department found it  
31 was not consistent with applicable standards, criteria, or plans. If  
32 the department was not given timely notice of a proposed capital  
33 expenditure, all associated costs will be unallowable up to the date  
34 they are determined to be reimbursable under applicable federal  
35 regulations;

36 (d) Costs associated with a construction or acquisition project  
37 requiring certificate of need approval pursuant to chapter 70.38 RCW if  
38 such approval was not obtained;

1 (e) Interest costs other than those provided by RCW 74.46.290 on  
2 and after January 1, 1985;

3 (f) Salaries or other compensation of owners, officers, directors,  
4 stockholders, and others associated with the contractor or home office,  
5 except compensation paid for service related to patient care;

6 (g) Costs in excess of limits or in violation of principles set  
7 forth in this chapter;

8 (h) Costs resulting from transactions or the application of  
9 accounting methods which circumvent the principles of the cost-related  
10 reimbursement system set forth in this chapter;

11 (i) Costs applicable to services, facilities, and supplies  
12 furnished by a related organization in excess of the lower of the cost  
13 to the related organization or the price of comparable services,  
14 facilities, or supplies purchased elsewhere;

15 (j) Bad debts of non-Title XIX recipients. Bad debts of Title XIX  
16 recipients are allowable if the debt is related to covered services, it  
17 arises from the recipient's required contribution toward the cost of  
18 care, the provider can establish that reasonable collection efforts  
19 were made, the debt was actually uncollectible when claimed as  
20 worthless, and sound business judgment established that there was no  
21 likelihood of recovery at any time in the future;

22 (k) Charity and courtesy allowances;

23 (l) Cash, assessments, or other contributions, excluding dues, to  
24 charitable organizations, professional organizations, trade  
25 associations, or political parties, and costs incurred to improve  
26 community or public relations;

27 (m) Vending machine expenses;

28 (n) Expenses for barber or beautician services not included in  
29 routine care;

30 (o) Funeral and burial expenses;

31 (p) Costs of gift shop operations and inventory;

32 (q) Personal items such as cosmetics, smoking materials, newspapers  
33 and magazines, and clothing, except those used in patient activity  
34 programs;

35 (r) Fund-raising expenses, except those directly related to the  
36 patient activity program;

37 (s) Penalties and fines;

38 (t) Expenses related to telephones, televisions, radios, and  
39 similar appliances in patients' private accommodations;

1 (u) Federal, state, and other income taxes;

2 (v) Costs of special care services except where authorized by the  
3 department;

4 (w) Expenses of key-man insurance and other insurance or retirement  
5 plans not made available to all employees;

6 (x) Expenses of profit-sharing plans;

7 (y) Expenses related to the purchase and/or use of private or  
8 commercial airplanes which are in excess of what a prudent contractor  
9 would expend for the ordinary and economic provision of such a  
10 transportation need related to patient care;

11 (z) Personal expenses and allowances of owners or relatives;

12 (aa) All expenses of maintaining professional licenses or  
13 membership in professional organizations;

14 (bb) Costs related to agreements not to compete;

15 (cc) Amortization of goodwill;

16 (dd) Expenses related to vehicles which are in excess of what a  
17 prudent contractor would expend for the ordinary and economic provision  
18 of transportation needs related to patient care;

19 (ee) Legal and consultant fees in connection with a fair hearing  
20 against the department where a decision is rendered in favor of the  
21 department or where otherwise the determination of the department  
22 stands;

23 (ff) Legal and consultant fees of a contractor or contractors in  
24 connection with a lawsuit against the department;

25 (gg) Lease acquisition costs and other intangibles not related to  
26 patient care;

27 (hh) All rental or lease costs other than those provided in RCW  
28 74.46.300 on and after January 1, 1985;

29 (ii) Postsurvey charges incurred by the facility as a result of  
30 subsequent inspections under RCW 18.51.050 which occur beyond the first  
31 postsurvey visit during the certification survey calendar year;

32 (jj) Compensation paid for any purchased nursing care services,  
33 including registered nurse, licensed practical nurse, and nurse  
34 assistant services, obtained through service contract arrangement in  
35 excess of the amount of compensation paid for such hours of nursing  
36 care service had they been paid at the average hourly wage, including  
37 related taxes and benefits, for in-house nursing care staff of like  
38 classification at the same nursing facility, as reported in the most  
39 recent cost report period;

1 (kk) For all partial or whole rate periods after July 17, 1984,  
2 costs of land and depreciable assets that cannot be reimbursed under  
3 the Deficit Reduction Act of 1984 and implementing state statutory and  
4 regulatory provisions;

5 (ll) Costs reported by the contractor for a prior period to the  
6 extent such costs, due to statutory exemption, will not be incurred by  
7 the contractor in the period to be covered by the rate.

8 NEW SECTION. Sec. 98. A new section is added to chapter 74.46 RCW  
9 to read as follows:

10 The legislature intends to adopt a new system for establishing  
11 nursing home payment rates no later than July 1, 1998. Any payments to  
12 nursing homes for services provided after June 30, 1998, shall be based  
13 on the new system. The system shall include case-mix reimbursement  
14 methods for paying for nursing services and shall match payments to  
15 patient care needs, while providing incentives for cost control and  
16 efficiency. To that end:

17 (1) In consultation with nursing facility provider associations,  
18 consumer groups, and the legislative budget committee, the department  
19 of social and health services shall design and develop alternative  
20 methods for matching nursing facility payments to patient care needs,  
21 while providing incentives for cost control and efficiency.

22 (2) The department shall report to the fiscal and health care  
23 policy committees of the legislature on the projected benefits and  
24 costs of these alternative methods by October 15th of 1995, 1996, and  
25 1997. The October 1996 report shall additionally include a recommended  
26 time line for implementing the new payment system no later than July 1,  
27 1998.

28 (3) The following acts or parts of acts, as now existing or  
29 hereafter amended, are each repealed, effective June 30, 1998:

30 (a) RCW 74.46.420 and 1993 sp.s. c 13 s 7, 1985 c 361 s 18, 1983  
31 1st ex.s. c 67 s 18, & 1980 c 177 s 42;

32 (b) RCW 74.46.430 and 1993 sp.s. c 13 s 8, 1987 2nd ex.s. c 1 s 2,  
33 1987 c 476 s 2, 1983 1st ex.s. c 67 s 19, & 1980 c 177 s 43;

34 (c) RCW 74.46.440 and 1989 c 372 s 16 & 1980 c 177 s 44;

35 (d) RCW 74.46.450 and 1993 sp.s. c 13 s 9, 1983 1st ex.s. c 67 s  
36 20, & 1980 c 177 s 45;

- 1 (e) RCW 74.46.460 and 1993 sp.s. c 13 s 10, 1987 c 476 s 3, 1985 c  
2 361 s 15, 1983 1st ex.s. c 67 s 21, 1981 1st ex.s. c 2 s 5, & 1980 c  
3 177 s 46;
- 4 (f) RCW 74.46.465 and 1987 c 476 s 8;
- 5 (g) RCW 74.46.470 and 1993 sp.s. c 13 s 11, 1987 c 476 s 4, 1983  
6 1st ex.s. c 67 s 22, & 1980 c 177 s 47;
- 7 (h) RCW 74.46.481 and 1993 sp.s. c 13 s 12, 1991 sp.s. c 8 s 16,  
8 1990 c 207 s 1, 1987 c 476 s 5, & 1983 1st ex.s. c 67 s 24;
- 9 (i) RCW 74.46.490 and 1993 sp.s. c 13 s 13, 1983 1st ex.s. c 67 s  
10 25, 1981 1st ex.s. c 2 s 6, & 1980 c 177 s 49;
- 11 (j) RCW 74.46.500 and 1993 sp.s. c 13 s 14, 1992 c 182 s 1, & 1980  
12 c 177 s 50;
- 13 (k) RCW 74.46.505 and 1993 sp.s. c 13 s 15;
- 14 (l) RCW 74.46.510 and 1993 sp.s. c 13 s 16 & 1980 c 177 s 51;
- 15 (m) RCW 74.46.530 and 1993 sp.s. c 13 s 17, 1991 sp.s. c 8 s 17,  
16 1985 c 361 s 17, 1983 1st ex.s. c 67 s 28, 1981 1st ex.s. c 2 s 7, &  
17 1980 c 177 s 53;
- 18 (n) RCW 74.46.540 and 1980 c 177 s 54;
- 19 (o) RCW 74.46.550 and 1983 1st ex.s. c 67 s 29 & 1980 c 177 s 55;
- 20 (p) RCW 74.46.560 and 1983 1st ex.s. c 67 s 30 & 1980 c 177 s 56;
- 21 (q) RCW 74.46.570 and 1983 1st ex.s. c 67 s 31 & 1980 c 177 s 57;
- 22 (r) RCW 74.46.580 and 1983 1st ex.s. c 67 s 32 & 1980 c 177 s 58;
- 23 and
- 24 (s) RCW 74.46.590 and 1980 c 177 s 59.

25 **Sec. 99.** RCW 74.46.420 and 1993 sp.s. c 13 s 7 are each amended to  
26 read as follows:

27 The following principles are inherent in RCW 74.46.430 through  
28 74.46.590:

29 (1) ~~((Reimbursement))~~ Effective July 1, 1995, through June 30,  
30 1998, nursing facility payment rates will be set or adjusted for  
31 economic trends and conditions annually and prospectively on a per  
32 ((patient)) resident day basis ((on a two-year cycle corresponding to  
33 each state biennium; and)), in accordance with the principles and  
34 methods set forth in this chapter, to take effect July 1st of each  
35 year.

36 (2) ~~((The rates, in the nursing services, food, administrative, and~~  
37 ~~operational cost centers, shall be adjusted downward or upward when set~~  
38 ~~effective July 1 of the first fiscal year of the two-year rate setting~~

1 cycle and adjusted again downward or upward effective July 1 of the  
2 second fiscal year of the rate setting cycle for economic trends and  
3 conditions)) July 1, 1995, component rates in the nursing services,  
4 food, administrative, and operational cost centers shall be cost-  
5 rebased utilizing desk-reviewed and adjusted costs reported for  
6 calendar year 1994, for all nursing facilities submitting at least six  
7 months of cost data. Such component rates for July 1, 1995, shall also  
8 be adjusted downward or upward for economic trends and conditions as  
9 provided in this section. Component rates in property and return on  
10 investment (ROI) shall be reset annually as provided in this chapter.

11 (3) The July 1, 1995, component rates ((for the first year of each  
12 biennium)) in the nursing services, food, administrative, and  
13 operational cost centers shall be adjusted for economic trends and  
14 conditions by the change in the implicit price deflator for personal  
15 consumption expenditures index published by the bureau of labor  
16 statistics of the United States department of labor (IPD index). The  
17 period used to measure the IPD increase or decrease to be applied to  
18 these ((first year biennial)) July 1, 1995, rate((s)) components shall  
19 be ((the)) calendar year ((preceding the July 1 commencement of the  
20 state biennium)) 1994.

21 (4) ((The July 1 rates for the second year of each biennium shall  
22 be adjusted)) July 1, 1996, component rates in the nursing services,  
23 food, administrative, and operational cost centers shall not be cost-  
24 rebased, but shall be the component rates assigned to each nursing  
25 facility in effect on June 30, 1996, adjusted downward or upward for  
26 economic trends and conditions by the change in the nursing home input  
27 price index without capital costs published by the health care  
28 financing administration of the department of health and human  
29 services((,)) (HCFA index((, however, any increase shall be multiplied  
30 by one and one-half))). The period to be used to measure the HCFA  
31 index increase ((to be multiplied by one and one half and applied)) or  
32 decrease to be applied to these ((second year biennial)) June 30, 1996,  
33 component rates shall ((also)) be ((the)) calendar year ((preceding the  
34 July 1 commencement of the state biennium: PROVIDED, However, That in  
35 the event the change in the HCFA index measured over the following  
36 calendar year, the one terminating six months after the start of the  
37 state biennium, is twenty five percent greater or less than the change  
38 in the HCFA index measured over the calendar year preceding  
39 commencement of the state biennium, the department shall use the HCFA



1 ~~index increase multiplied by one and one half or decrease in such~~  
2 ~~following calendar year to inflate or decrease nursing facilities'~~  
3 ~~nursing services, food, administrative, and operational rates for July~~  
4 ~~1 of the second biennial year)) 1994.~~

5 (5) July 1, 1997, component rates in the nursing services, food,  
6 administrative, and operational cost centers shall not be cost-rebased,  
7 but shall be the component rates assigned to each nursing facility in  
8 effect on June 30, 1997, adjusted downward or upward for economic  
9 trends and conditions by the change in the nursing home input price  
10 index without capital costs published by the health care financing  
11 administration of the department of health and human services (HCFA  
12 index), multiplied by a factor of 1.25. The period to be used to  
13 measure the HCFA increase or decrease to be applied to these rate  
14 components for July 1, 1997, rate setting shall be calendar year 1996.

15 (6) If either the implicit price deflator (IPD) index or the health  
16 care financing administration (HCFA) index specified in this section  
17 ceases to be published in the future, the department shall select ((by  
18 rule)) and use in its place or their place one or more measures of  
19 change from the same or an alternate source or sources ((for))  
20 utilizing the same or comparable time periods specified in this  
21 section.

22 **Sec. 100.** RCW 74.46.430 and 1993 sp.s. c 13 s 8 are each amended  
23 to read as follows:

24 (1) The department, as provided by this chapter, will determine  
25 prospective ~~((cost-related reimbursement))~~ payment rates for services  
26 provided to medical care recipients. Each rate so determined shall  
27 represent the contractor's maximum compensation within each cost center  
28 and for return on investment for each ((patient)) resident day for such  
29 medical care recipient.

30 (2) ~~((As required,))~~ The department may modify such maximum per  
31 ~~((patient))~~ resident day rates, consistent with this chapter, pursuant  
32 to the administrative ((review provisions of)) appeals or exception  
33 procedure authorized by RCW 74.46.780.

34 (3) For July 1, 1995, and all following rates, the maximum  
35 prospective ((reimbursement)) component payment rates for the nursing  
36 services, food, administrative, operational, and property cost centers,  
37 and the return on investment (ROI) component rate for each nursing  
38 facility shall be established based upon a minimum licensed bed

1 facility occupancy level of ~~((eighty-five))~~ ninety percent, except for  
2 rate adjustments as provided for in RCW 74.46.460(6).

3 (4) The minimum ninety percent facility occupancy shall be used to  
4 calculate individual rates, to calculate the median cost limits (MCLs)  
5 for the metropolitan statistical area (MSA) and nonmetropolitan  
6 statistical area (non-MSA) peer groups, and to array facilities by  
7 costs in calculating the variable return portion of the return on  
8 investment rate component (ROI).

9 (5) All contractors shall be required to adjust and maintain wages  
10 for all employees to a minimum hourly wage of four dollars and seventy-  
11 six cents per hour beginning January 1, 1988, and five dollars and  
12 fifteen cents per hour beginning January 1, 1989.

13 **Sec. 101.** RCW 74.46.450 and 1993 sp.s. c 13 s 9 are each amended  
14 to read as follows:

15 (1) Prospective reimbursement rates for a new contractor, as  
16 defined by the department in rule, will be established within sixty  
17 days following receipt by the department of the properly completed  
18 projected budget required by RCW 74.46.670. Such reimbursement rates  
19 will become effective as of the effective date of the contract and  
20 shall remain in effect until ~~((adjusted or))~~ the new contractor's rate  
21 in all cost areas can be reset ~~((as provided in this chapter))~~  
22 effective July 1st using a cost report of that contractor containing at  
23 least six months' data from the prior calendar year, regardless of  
24 whether reported costs for other contractors for the prior calendar  
25 year in question will be used to rebase their July 1st rates.

26 (2) Such reimbursement rates will be based on ~~((the contractor's~~  
27 ~~projected cost of operations and on costs and))~~ payment rates of the  
28 prior contractor, if any, or of other contractors in comparable  
29 circumstances.

30 (3) ~~((If a properly completed budget is not received at least sixty~~  
31 ~~days prior to the effective date of the contract,))~~ The department will  
32 establish ~~((preliminary))~~ a new contractor's initial component rates  
33 based on the ~~((other))~~ factors specified in subsections (2) and (4) of  
34 this section. These ~~((preliminary))~~ initial rates will remain in  
35 effect until adjusted or reset as provided in this chapter.

36 (4) The department is authorized to develop policies and procedures  
37 in rule ~~((to address the computation of rates for the first and second~~  
38 ~~fiscal years of each biennium, including steps necessary to prorate~~

1 ~~rate adjustments for economic trends and conditions as authorized in~~  
2 ~~RCW 74.46.420, for contractors having less than twelve months of cost~~  
3 ~~report data for the prior calendar year))~~ that comply with the policies  
4 and purposes of this chapter to establish factors by which a new  
5 contractor's rate will be set, for example, occupancy level or  
6 proration of rate adjustments for economic trends and conditions as  
7 authorized in RCW 74.46.420.

8 **Sec. 102.** RCW 74.46.460 and 1993 sp.s. c 13 s 10 are each amended  
9 to read as follows:

10 (1) Each contractor's (~~reimbursement~~) nursing services, food,  
11 administrative, and operational component payment rates will be  
12 (~~determined or~~) adjusted for economic trends and conditions  
13 prospectively at least once during each calendar year, as provided in  
14 this chapter, to be effective July 1st((-)): PROVIDED, That except for  
15 the rates of new contractors as defined by the department, a  
16 (~~contractor's~~) nursing facility's cost-rebased rate for ((the first  
17 fiscal year of each biennium)) July 1, 1995, must be established upon  
18 (~~its~~) the facility's own ((prior calendar period)) cost report of at  
19 least six months of adjusted and/or audited cost data from the calendar  
20 year 1994.

21 (2) Subject to the provisions of subsections (3) through (6) of  
22 this section, rates may be adjusted ((as determined)) by the department  
23 at the request of the nursing facility to cover the medicaid share of  
24 incremental costs necessary to address and take into account variations  
25 in the distribution of all medicaid and nonmedicaid patient  
26 classifications or changes in all medicaid or nonmedicaid patient  
27 characteristics from the prior reporting year, program changes required  
28 by the department, or changes in staffing levels at a facility required  
29 by the department. Rates may also be adjusted to cover costs  
30 associated with placing a nursing home in receivership which costs are  
31 not covered by the rate of the former contractor, including:  
32 Compensation of the receiver, reasonable expenses of receivership and  
33 transition of control, and costs incurred by the receiver in carrying  
34 out court instructions or rectifying deficiencies found. Rates shall  
35 be adjusted as provided in this section for any capitalized additions  
36 or replacements made as a condition for licensure or certification.  
37 Rates shall be adjusted as provided in this section for capitalized  
38 improvements done under RCW 74.46.465.

1       (3) Except for rate adjustments granted for economic trends and  
2 conditions as authorized in this chapter to be effective each July 1st,  
3 all rate adjustments granted by the department for any other purpose,  
4 including those granted for capitalized additions or replacements or  
5 for staffing, whether made or not made as a condition of licensure or  
6 certification, shall be limited in total amount each fiscal year to the  
7 total current legislative appropriation, if any, specifically made to  
8 fund the medicaid share of such adjustments for the fiscal year.

9       (4) The department is authorized to adopt rules to ensure that  
10 funding granted for additional staffing will be cost-effective in  
11 providing increased quantity and quality of services to nursing  
12 facility residents and to ensure that spending limitations will not be  
13 exceeded.

14       (5) Funds disbursed representing rate adjustments granted under  
15 authority of this section and not spent by the contractor for the  
16 purposes granted are subject to immediate recovery by the department by  
17 means of recoupment from current contract payments or any other means  
18 authorized by law and contractors shall pay interest on such unused or  
19 misused funds at the rate of one percent per month from the date of  
20 disbursal to the date of recovery. If a contractor requests an  
21 administrative review of a department recovery action under rules  
22 established under RCW 74.46.780, such request shall not stay recoupment  
23 from current facility contract payments or other recovery.

24       (6) All rate component adjustments to fund the medicaid share of  
25 nursing facility new construction or refurbishing projects costing in  
26 excess of one million two hundred thousand dollars, or projects  
27 requiring state or federal approval, shall be based upon a minimum  
28 facility occupancy of eighty-five percent for the nursing services,  
29 food, administrative, operational, and property cost centers, and the  
30 return on investment (ROI), during the initial rate period in which the  
31 adjustment is granted, and shall be based upon a minimum facility  
32 occupancy of ninety percent for the nursing services, food,  
33 administrative, operational, and property cost centers, and the return  
34 on investment (ROI), for all rate periods thereafter.

35       **Sec. 103.** RCW 74.46.470 and 1993 sp.s. c 13 s 11 are each amended  
36 to read as follows:

37       (1) A contractor's ~~((reimbursement))~~ nursing facility per resident  
38 day component rates for medical care recipients ~~((will))~~ shall be

1 determined as provided in this chapter utilizing net invested funds and  
2 desk-reviewed cost report data within the following cost centers:

- 3 (a) Nursing services;
- 4 (b) Food;
- 5 (c) Administrative;
- 6 (d) Operational; and
- 7 (e) Property.

8 (2) There shall be for the time period January 1988 through June  
9 1990 only an enhancement cost center established to reimburse  
10 contractors for specific legislatively authorized enhancements for  
11 nonadministrative wages and benefits to ensure that such enhancements  
12 are used exclusively for the legislatively authorized purposes. For  
13 purposes of settlement, funds appropriated to this cost center shall  
14 only be used for expenditures for which the legislative authorization  
15 is granted. Such funds may be used only in the following  
16 circumstances:

- 17 (a) The contractor has increased expenditures for which legislative  
18 authorization is granted to at least the highest level paid in any of  
19 the last three cost years, plus, beginning July 1, 1987, any percentage  
20 inflation adjustment as was granted each year under RCW 74.46.495; and
- 21 (b) All funds shifted from the enhancement cost center are shown to  
22 have been expended for legislatively authorized enhancements.

23 (3) If the contractor does not spend the amount appropriated to  
24 this cost center in the legislatively authorized manner, then the  
25 amounts not appropriately spent shall be recouped at preliminary or  
26 final settlement pursuant to RCW 74.46.160.

27 (4) For purposes of this section, "nonadministrative wages and  
28 benefits" means wages and payroll taxes paid with respect to, and the  
29 employer share of the cost of benefits provided to, employees in job  
30 classes specified in an appropriation, which may not include  
31 administrators, assistant administrators, or administrators in  
32 training.

33 (5) Amounts expended in the enhancement cost center in excess of  
34 the minimum wage established under RCW 74.46.430 are subject to all  
35 provisions contained in this chapter.

36 **Sec. 104.** RCW 74.46.481 and 1993 sp.s. c 13 s 12 are each amended  
37 to read as follows:

1 (1) The nursing services cost center shall include for reporting  
2 and audit purposes all costs related to the direct provision of nursing  
3 and related care, including fringe benefits and payroll taxes for the  
4 nursing and related care personnel, and the cost of nursing supplies.  
5 The department shall adopt by administrative rule a definition of  
6 "related care". For rates effective after June 30, 1991, nursing  
7 services costs, as reimbursed within this chapter, shall not include  
8 costs of any purchased nursing care services, including registered  
9 nurse, licensed practical nurse, and nurse assistant services, obtained  
10 through service contract arrangement in excess of the amount of  
11 compensation paid for such hours of nursing care service had they been  
12 paid at the average hourly wage, including related taxes and benefits,  
13 for in-house nursing care staff of like classification at the same  
14 nursing facility, as reported in the most recent cost report period.

15 (2) The department shall adopt through administrative rules a  
16 method for establishing a nursing services cost center rate consistent  
17 with the principles stated in this section.

18 (3) Utilizing regression or other statistical technique, the  
19 department shall determine a reasonable limit on facility nursing staff  
20 taking into account facility patient characteristics. For purposes of  
21 this section, facility nursing staff refers to registered nurses,  
22 licensed practical nurses and nursing assistants employed by the  
23 facility or obtained through temporary labor contract arrangements.  
24 Effective January 1, 1988, the hours associated with the training of  
25 nursing assistants and the supervision of that training for nursing  
26 assistants shall not be included in the calculation of facility nursing  
27 staff. In selecting a measure of patient characteristics, the  
28 department shall take into account:

29 (a) The correlation between alternative measures and facility  
30 nursing staff; and

31 (b) The cost of collecting information for and computation of a  
32 measure.

33 If regression is used, the limit shall be set at predicted nursing  
34 staff plus 1.75 regression standard errors. If another statistical  
35 method is utilized, the limit shall be set at a level corresponding to  
36 1.75 standard errors above predicted staffing computed according to a  
37 regression procedure. A regression calculated shall be effective for  
38 the entire biennium.

1 (4) No facility shall receive reimbursement for nursing staff  
2 levels in excess of the limit. However, nursing staff levels  
3 established under subsection (3) of this section shall not apply to the  
4 nursing services cost center reimbursement rate only for the pilot  
5 facility especially designed to meet the needs of persons living with  
6 AIDS as defined by RCW 70.24.017 and specifically authorized for this  
7 purpose under the 1989 amendment to the Washington state health plan.

8 (5) ~~((Every two years when rates are set at the beginning of each  
9 new biennium))~~ For July 1, 1995, rate setting only, the department  
10 shall divide into two peer groups nursing facilities located in the  
11 state of Washington providing services to medicaid residents: (a)  
12 Those facilities located within a metropolitan statistical area as  
13 defined and determined by the United States office of management and  
14 budget or other applicable federal office (MSA) and (b) those not  
15 located in such an area (non-MSA). The facilities in each peer group  
16 shall then be arrayed from lowest to highest by magnitude of per  
17 ~~((patient))~~ resident day desk-reviewed, adjusted nursing services cost  
18 from the ~~((prior))~~ 1994 calendar report year, regardless of whether any  
19 such adjustments are contested by the nursing facility, and the median  
20 or fiftieth percentile cost for each peer group shall be determined.  
21 Nursing services component rates for facilities within each peer group  
22 ~~((for the first year of the biennium))~~ shall be set at the lower of the  
23 facility's desk-reviewed, adjusted per ~~((patient))~~ resident day nursing  
24 services cost from the ~~((prior))~~ 1994 report period or the median cost  
25 for the facility's peer group, utilizing the same calendar year report  
26 data plus twenty-five percent. This rate shall be reduced or inflated  
27 as authorized by RCW 74.46.420. However, the per patient day peer  
28 group median cost plus twenty-five percent limit shall not apply to the  
29 nursing services cost center reimbursement rate only for the pilot  
30 facility especially designed to meet the needs of persons living with  
31 AIDS as defined by RCW 70.24.017 and specifically authorized for this  
32 purpose under the 1989 amendment to the Washington state health plan.

33 (6) ~~((If a nursing facility is impacted by the limit authorized in  
34 subsection (5) of this section, it shall not receive a prospective rate  
35 in nursing services for July 1, 1993, less than the same facility's  
36 prospective rate in nursing services as of June 30, 1993, adjusted by  
37 any increase in the implicit price deflator for personal consumption  
38 expenditures, IPD index, as measured over the period authorized by RCW  
39 74.46.420(3)).~~

1       ~~(7))~~ For rates effective July 1, 1996, a nursing facility's  
2 noncost-rebased component rate in nursing services (~~for the second~~  
3 ~~year of each biennium~~) shall be that facility's nursing services  
4 component rate (~~as of July 1 of the first year of that biennium~~)  
5 existing on June 30, 1996, reduced or inflated as authorized by RCW  
6 74.46.420. (~~The alternating procedures prescribed in this section for~~  
7 ~~a facility's two July 1 nursing services rates occurring within each~~  
8 ~~biennium shall be followed in the same order for each succeeding~~  
9 ~~biennium.~~) The July 1, 1996, nursing services component rate used to  
10 calculate the return on investment (ROI) component rate shall be the  
11 inflated prospective nursing services rate as of June 30, 1996,  
12 excluding any rate increases granted pursuant to RCW 74.46.460.

13       (7) For rates effective July 1, 1997, a nursing facility's noncost-  
14 rebased component rate in nursing services shall be that facility's  
15 nursing services component rate existing on June 30, 1997, reduced or  
16 inflated as authorized by RCW 74.46.420. The July 1, 1997, nursing  
17 services component rate used to calculate the return on investment  
18 (ROI) component rate shall be the inflated prospective nursing services  
19 rate as of June 30, 1997, excluding any rate increases granted pursuant  
20 to RCW 74.46.460.

21       (8) Median cost((s)) limits for peer groups shall be calculated  
22 initially for July 1, 1995, rate setting as provided in this chapter on  
23 the basis of ((the most recent)) adjusted 1994 nursing services cost  
24 report information available to the department prior to the calculation  
25 of the new rates for July 1, 1995 (~~of the first fiscal year of each~~  
26 ~~biennium~~), regardless of whether the adjustments are contested or  
27 subject to pending administrative or judicial review. Median costs for  
28 peer groups shall be recalculated as provided in this chapter on the  
29 basis of the most recent adjusted cost information available to the  
30 department on October 31, 1995 (~~of the first fiscal year of each~~  
31 ~~biennium~~), and shall apply retroactively to (~~the prior~~) July 1,  
32 1995, rates, regardless of whether the adjustments are contested or  
33 subject to pending administrative or judicial review. Median cost((s))  
34 limits, once calculated using October 31, 1995, adjusted cost  
35 information shall not be adjusted to reflect subsequent administrative  
36 or judicial rulings, whether final or not.

37       (9) The department is authorized to determine on a systematic basis  
38 facilities with unmet patient care service needs. The department may  
39 increase the nursing services cost center prospective rate for a



1 facility beyond the level determined in accordance with subsection (6)  
2 of this section if the facility's actual and reported nursing staffing  
3 is one standard error or more below predicted staffing as determined  
4 according to the method selected pursuant to subsection (3) of this  
5 section and the facility has unmet patient care service needs:  
6 PROVIDED, That prospective rate increases authorized by this subsection  
7 shall be funded only from legislative appropriations made for this  
8 purpose during the periods authorized by such appropriations or other  
9 laws and the increases shall be conditioned on specified improvements  
10 in patient care at such facilities.

11 (10) The department shall establish a method for identifying  
12 patients with exceptional care requirements and a method for  
13 establishing or negotiating on a consistent basis rates for such  
14 patients.

15 (11) The department, in consultation with interested parties, shall  
16 adopt rules to establish the criteria the department will use in  
17 reviewing any requests by a contractor for a prospective rate  
18 adjustment to be used to increase the number of nursing staff. These  
19 rules shall also specify the time period for submission and review of  
20 staffing requests: PROVIDED, That a decision on a staffing request  
21 shall not take longer than sixty days from the date the department  
22 receives such a complete request. In establishing the criteria, the  
23 department may consider, but is not limited to, the following:

24 (a) Increases in debility levels of contractors' residents  
25 determined in accordance with the department's assessment and reporting  
26 procedures and requirements utilizing the minimum data set;

27 (b) Staffing patterns for similar facilities in the same peer  
28 group;

29 (c) Physical plant of contractor; and

30 (d) Survey, inspection of care, and department consultation  
31 results.

32 **Sec. 105.** RCW 74.46.490 and 1993 sp.s. c 13 s 13 are each amended  
33 to read as follows:

34 (1) The food cost center shall include for reporting purposes all  
35 costs for bulk and raw food and beverages purchased for the dietary  
36 needs of medical care recipients.

37 (2) (~~Every two years when rates are set at the beginning of each~~  
38 ~~new biennium~~) For July 1, 1995, rate setting only, the department

1 shall divide into two peer groups nursing facilities located in the  
2 state of Washington providing services to medicaid residents: (a)  
3 Those facilities located within a metropolitan statistical area as  
4 defined and determined by the United States office of management and  
5 budget or other applicable federal office (MSA) and (b) those not  
6 located in such an area (non-MSA). The facilities in each peer group  
7 shall then be arrayed from lowest to highest by magnitude of per  
8 (~~(patient)~~) resident day desk-reviewed, adjusted food cost from the  
9 (~~(prior)~~) 1994 calendar report year, regardless of whether any such  
10 adjustments are contested by the nursing facility, and the median or  
11 fiftieth percentile cost for each peer group shall be determined. Food  
12 component rates for facilities within each peer group (~~(for the first~~  
13 ~~year of the biennium)~~) shall be set at the lower of the facility's  
14 desk-reviewed, adjusted per (~~(patient)~~) resident day food cost from the  
15 (~~(prior)~~) 1994 report period or the median cost for the facility's peer  
16 group, using the same calendar year report data, plus twenty-five  
17 percent. This rate shall be reduced or inflated as authorized by RCW  
18 74.46.420.

19 (3) For rates effective July 1, 1996, a nursing facility's noncost-  
20 rebased food component rate (~~(for the second year of each biennium)~~)  
21 shall be that facility's food component rate (~~(as of July 1 of the~~  
22 ~~first year of that biennium)~~) existing on June 30, 1996, reduced or  
23 inflated as authorized by RCW 74.46.420. (~~(The alternating procedures~~  
24 ~~prescribed in this section for a facility's two July 1 food rates~~  
25 ~~occurring within each biennium shall be followed in the same order for~~  
26 ~~each succeeding biennium.)~~) The July 1, 1996, food component rate used  
27 to calculate the return on investment (ROI) component rate shall be the  
28 inflated prospective food component rate as of June 30, 1996, excluding  
29 any rate increases granted pursuant to RCW 74.46.460.

30 (4) For rates effective July 1, 1997, a nursing facility's noncost-  
31 rebased food component rate shall be that facility's food component  
32 rate existing on June 30, 1997, reduced or inflated as authorized by  
33 RCW 74.46.420. The July 1, 1997, food component rate used to calculate  
34 the return on investment (ROI) component rate shall be the inflated  
35 prospective food component rate as of June 30, 1997, excluding any rate  
36 increases granted pursuant to RCW 74.46.460.

37 (~~((4))~~) (5) Median cost(~~(s)~~) limits for peer groups shall be  
38 calculated initially for July 1, 1995, rate setting as provided in this  
39 chapter on the basis of (~~(the most recent)~~) adjusted 1994 food cost

1 report information available to the department prior to the calculation  
2 of the new rates for July 1, 1995 (~~of the first fiscal year of each~~  
3 ~~biennium~~), regardless of whether the adjustments are contested or  
4 subject to pending administrative or judicial review. Median costs for  
5 peer groups shall be recalculated as provided in this chapter on the  
6 basis of the most recent adjusted cost information available to the  
7 department on October 31, 1995 (~~of the first fiscal year of each~~  
8 ~~biennium~~), and shall apply retroactively to (~~the prior~~) July 1,  
9 1995, rates, regardless of whether the adjustments are contested or  
10 subject to pending administrative or judicial review. Median cost(~~s~~)  
11 limits, once calculated utilizing October 31, 1995, adjusted cost  
12 information, shall not be adjusted to reflect subsequent administrative  
13 or judicial rulings, whether final or not.

14 **Sec. 106.** RCW 74.46.500 and 1993 sp.s. c 13 s 14 are each amended  
15 to read as follows:

16 (1) The administrative cost center shall include for cost reporting  
17 purposes all administrative, oversight, and management costs whether  
18 facility on-site or allocated in accordance with a department-approved  
19 joint-cost allocation methodology. Such costs shall be identical to  
20 the cost report line item costs categorized under "general and  
21 administrative" in the "administration and operations" combined cost  
22 center existing prior to January 1, 1993, except for nursing supplies  
23 and purchased medical records.

24 (2) (~~Every two years when rates are set at the beginning of each~~  
25 ~~new biennium~~) For July 1, 1995, rate setting only, the department  
26 shall divide into two peer groups nursing facilities located in the  
27 state of Washington providing services to medicaid residents: (a)  
28 Those facilities located within a metropolitan statistical area as  
29 defined and determined by the United States office of management and  
30 budget or other applicable federal office (MSA) and (b) those not  
31 located in such an area (non-MSA). The facilities in each peer group  
32 shall then be arrayed from lowest to highest by magnitude of per  
33 (~~patient~~) resident day desk-reviewed, adjusted administrative cost  
34 from the (~~prior~~) 1994 calendar report year, regardless of whether any  
35 such adjustments are contested by the nursing facility, and the median  
36 or fiftieth percentile cost for each peer group shall be determined.  
37 Administrative component rates for facilities within each peer group  
38 (~~for the first year of the biennium~~) shall be set at the lower of the

1 facility's desk-reviewed, adjusted per ~~((patient))~~ resident day  
2 administrative cost from the ~~((prior))~~ 1994 report period or the median  
3 cost for the facility's peer group, utilizing the same calendar year  
4 report data, plus ten percent. This rate shall be reduced or inflated  
5 as authorized by RCW 74.46.420.

6 (3) For rates effective July 1, 1996, a nursing facility's noncost-  
7 rebased administrative component rate ~~((for the second year of each~~  
8 biennium)) shall be that facility's administrative component rate ~~((as~~  
9 of July 1 of the first year of that biennium)) existing on June 30,  
10 1996, reduced or inflated as authorized by RCW 74.46.420. ~~((The~~  
11 alternating procedures prescribed in this section for a facility's two  
12 July 1 administrative rates occurring within each biennium shall be  
13 followed in the same order for each succeeding biennium.)) The July 1,  
14 1996, administrative component rate used to calculate the return on  
15 investment (ROI) component rate shall be the inflated prospective  
16 administrative component rate as of June 30, 1996, excluding any rate  
17 increases granted pursuant to RCW 74.46.460.

18 (4) For rates effective July 1, 1997, a nursing facility's noncost-  
19 rebased administrative component rate shall be that facility's  
20 administrative component rate existing on June 30, 1997, reduced or  
21 inflated as authorized by RCW 74.46.420. The July 1, 1997,  
22 administrative component rate used to calculate the return on  
23 investment (ROI) component rate shall be the inflated prospective  
24 administrative component rate as of June 30, 1997, excluding any rate  
25 increases granted pursuant to RCW 74.46.460.

26 ~~((+4))~~ (5) Median cost ~~((s))~~ limits for peer groups shall be  
27 calculated initially for July 1, 1995, rate setting as provided in this  
28 chapter on the basis of ~~((the most recent))~~ adjusted 1994  
29 administrative cost report information available to the department  
30 prior to the calculation of the new rates for July 1, 1995 ~~((of the~~  
31 first fiscal year of each biennium)), regardless of whether the  
32 adjustments are contested or subject to pending administrative or  
33 judicial review. Median costs for peer groups shall be recalculated as  
34 provided in this chapter on the basis of the most recent adjusted cost  
35 information available to the department on October 31, 1995 ~~((of the~~  
36 first fiscal year of each biennium)), and shall apply retroactively to  
37 ~~((the prior))~~ July 1, 1995, rates, regardless of whether the  
38 adjustments are contested or subject to pending administrative or  
39 judicial review. Median cost ~~((s))~~ limits, once calculated utilizing

1 October 31, 1995, adjusted cost information, shall not be adjusted to  
2 reflect subsequent administrative or judicial rulings, whether final or  
3 not.

4 **Sec. 107.** RCW 74.46.505 and 1993 sp.s. c 13 s 15 are each amended  
5 to read as follows:

6 (1) The operational cost center shall include for cost reporting  
7 purposes all allowable costs of the daily operation of the facility not  
8 included in nursing services and related care, food, administrative, or  
9 property costs, whether such costs are facility on-site or allocated in  
10 accordance with a department-approved joint-cost allocation  
11 methodology.

12 (2) ~~((Every two years when rates are set at the beginning of each~~  
13 ~~new biennium))~~ For July 1, 1995, rate setting only, the department  
14 shall divide into two peer groups nursing facilities located in the  
15 state of Washington providing services to medicaid residents: (a)  
16 Those facilities located within a metropolitan statistical area as  
17 defined and determined by the United States office of management and  
18 budget or other applicable federal office (MSA) and (b) those not  
19 located in such an area (non-MSA). The facilities in each peer group  
20 shall then be arrayed from lowest to highest by magnitude of per  
21 ~~((patient))~~ resident day desk-reviewed, adjusted operational cost from  
22 the ~~((prior))~~ 1994 calendar report year, regardless of whether any such  
23 adjustments are contested by the nursing facility, and the median or  
24 fiftieth percentile cost for each peer group shall be determined.  
25 Operational component rates for facilities within each peer group ~~((for~~  
26 ~~the first year of the biennium))~~ shall be set at the lower of the  
27 facility's desk-reviewed, adjusted per ~~((patient))~~ resident day  
28 operational cost from the ~~((prior))~~ 1994 report period or the median  
29 cost for the facility's peer group, utilizing the same calendar year  
30 report data, plus twenty-five percent. This rate shall be reduced or  
31 inflated as authorized by RCW 74.46.420.

32 (3) For rates effective July 1, 1996, a nursing facility's noncost-  
33 rebased operational component rate ~~((for the second year of each~~  
34 ~~biennium))~~ shall be that facility's operational component rate ~~((as of~~  
35 ~~July 1 of the first year of that biennium))~~ existing on June 30, 1996,  
36 reduced or inflated as authorized by RCW 74.46.420. ~~((The alternating~~  
37 ~~procedures prescribed in this section for a facility's two July 1~~  
38 ~~operational rates occurring within each biennium shall be followed in~~

1 ~~the same order for each succeeding biennium.))~~ The July 1, 1996,  
2 operational component rate used to calculate the return on investment  
3 (ROI) component rate shall be the inflated prospective operational  
4 component rate as of June 30, 1996, excluding any rate increases  
5 granted pursuant to RCW 74.46.460.

6 (4) For rates effective July 1, 1997, a nursing facility's noncost-  
7 rebased operational component rate shall be that facility's operational  
8 component rate existing on June 30, 1997, reduced or inflated as  
9 authorized by RCW 74.46.420. The July 1, 1997, operational component  
10 rate used to calculate the return on investment (ROI) component rate  
11 shall be the inflated prospective operational component rate as of June  
12 30, 1997, excluding any rate increases granted pursuant to RCW  
13 74.46.460.

14 ~~((4))~~ (5) Median cost((s)) limits for peer groups shall be  
15 calculated initially for July 1, 1995, rate setting as provided in this  
16 chapter on the basis of ((the most recent)) adjusted 1994 operational  
17 cost report information available to the department prior to the  
18 calculation of the new rate for July 1, 1995 ((of the first fiscal year  
19 of each biennium)), regardless of whether the adjustments are contested  
20 or subject to pending administrative or judicial review. Median costs  
21 for peer groups shall be recalculated as provided in this chapter on  
22 the basis of the most recent adjusted cost information available to the  
23 department on October 31, 1995 ((of the first fiscal year of each  
24 biennium)), and shall apply retroactively to ((the prior)) July 1,  
25 1995, rates, regardless of whether the adjustments are contested or  
26 subject to pending administrative or judicial review. Median cost((s))  
27 limits, once calculated utilizing October 31, 1995, adjusted cost  
28 information, shall not be adjusted to reflect subsequent administrative  
29 or judicial rulings, whether final or not.

30 **Sec. 108.** RCW 74.46.510 and 1993 sp.s. c 13 s 16 are each amended  
31 to read as follows:

32 (1) The property cost center rate for each facility shall be  
33 determined by dividing the sum of the reported allowable prior period  
34 actual depreciation, subject to RCW 74.46.310 through 74.46.380,  
35 adjusted for any capitalized additions or replacements approved by the  
36 department, and the retained savings from such cost center, as provided  
37 in RCW 74.46.180, by the greater of a facility's total ((patient))  
38 resident days for the facility in the prior period or resident days as

1 calculated on ninety or eighty-five percent facility occupancy as  
2 applicable. If a capitalized addition or retirement of an asset will  
3 result in a different licensed bed capacity during the ensuing period,  
4 the prior period total ((~~patient~~)) resident days used in computing the  
5 property cost center rate shall be adjusted to anticipated ((~~patient~~))  
6 resident day level.

7 (2) A nursing facility's property rate shall be rebased annually,  
8 effective July 1, in accordance with this section and this chapter  
9 ((~~regardless of whether the rate is for the first or second year of the~~  
10 ~~biennium~~)).

11 (3) When a certificate of need for a new facility is requested, the  
12 department, in reaching its decision, shall take into consideration  
13 per-bed land and building construction costs for the facility which  
14 shall not exceed a maximum to be established by the secretary.

15 **Sec. 109.** RCW 74.46.530 and 1993 sp.s. c 13 s 17 are each amended  
16 to read as follows:

17 (1) The department shall establish for each medicaid nursing  
18 facility a return on investment (ROI) rate composed of two parts: A  
19 financing allowance and a variable return allowance. The financing  
20 allowance part of a facility's return on investment component rate  
21 shall be rebased annually, effective July 1, in accordance with the  
22 provisions of this section and this chapter((~~, regardless of whether~~  
23 ~~the rate is for the first or second year of the biennium~~)).

24 (a) The financing allowance shall be determined by multiplying the  
25 net invested funds of each facility by .10, and dividing by the  
26 ((~~contractor's~~)) greater of a nursing facility's total ((~~patient~~))  
27 resident days from the most recent cost report period or resident days  
28 calculated on ninety percent or eighty-five percent facility occupancy  
29 as applicable. If a capitalized addition or retirement of an asset  
30 will result in a different licensed bed capacity during the ensuing  
31 period, the prior period total ((~~patient~~)) resident days used in  
32 computing the financing and variable return allowances shall be  
33 adjusted to the anticipated ((~~patient~~)) resident day level.

34 (b) In computing the portion of net invested funds representing the  
35 net book value of tangible fixed assets, the same assets, depreciation  
36 bases, lives, and methods referred to in RCW 74.46.330, 74.46.350,  
37 74.46.360, 74.46.370, and 74.46.380, including owned and leased assets,  
38 shall be utilized, except that the capitalized cost of land upon which

1 the facility is located and such other contiguous land which is  
2 reasonable and necessary for use in the regular course of providing  
3 ((patient)) resident care shall also be included. Subject to  
4 provisions and limitations contained in this chapter, for land  
5 purchased by owners or lessors before July 18, 1984, capitalized cost  
6 of land shall be the buyer's capitalized cost. For all partial or  
7 whole rate periods after July 17, 1984, if the land is purchased after  
8 July 17, 1984, capitalized cost shall be that of the owner of record on  
9 July 17, 1984, or buyer's capitalized cost, whichever is lower. In the  
10 case of leased facilities where the net invested funds are unknown or  
11 the contractor is unable to provide necessary information to determine  
12 net invested funds, the secretary shall have the authority to determine  
13 an amount for net invested funds based on an appraisal conducted  
14 according to RCW 74.46.360(1).

15 (c) In determining the variable return allowance:

16 (i) ~~((Every two years at the start of each new biennium))~~ For July  
17 1, 1995, rate setting only, the department, without utilizing peer  
18 groups, ~~((will))~~ shall first rank all facilities in numerical order  
19 from highest to lowest according to their per ~~((patient))~~ resident day  
20 adjusted or audited, or both, allowable costs for nursing services,  
21 food, administrative, and operational costs combined for the  
22 ~~((previous))~~ 1994 calendar year cost report period.

23 (ii) The department shall then compute the variable return  
24 allowance by multiplying the appropriate percentage amounts, which  
25 shall not be less than one percent and not greater than four percent,  
26 by the sum of the facility's nursing services, food, administrative,  
27 and operational rate components. The percentage amounts will be based  
28 on groupings of facilities according to the rankings prescribed in (i)  
29 of this subsection (1)(c). The percentages calculated and assigned  
30 will remain the same for the ~~((next))~~ variable return allowance paid in  
31 ~~((the second year of the biennium))~~ all July 1, 1996, and July 1, 1997,  
32 rates as well. Those groups of facilities with lower per diem costs  
33 shall receive higher percentage amounts than those with higher per diem  
34 costs.

35 (d) The sum of the financing allowance and the variable return  
36 allowance shall be the return on investment rate for each facility, and  
37 shall be added to the prospective rates of each contractor as  
38 determined in RCW 74.46.450 through 74.46.510.



1 (e) In the case of a facility which was leased by the contractor as  
2 of January 1, 1980, in an arm's-length agreement, which continues to be  
3 leased under the same lease agreement, and for which the annualized  
4 lease payment, plus any interest and depreciation expenses associated  
5 with contractor-owned assets, for the period covered by the prospective  
6 rates, divided by the contractor's total ((~~patient~~)) resident days,  
7 minus the property cost center determined according to RCW 74.46.510,  
8 is more than the return on investment rate determined according to  
9 subsection (1)(d) of this section, the following shall apply:

10 (i) The financing allowance shall be recomputed substituting the  
11 fair market value of the assets as of January 1, 1982, as determined by  
12 the department of general administration through an appraisal  
13 procedure, less accumulated depreciation on the lessor's assets since  
14 January 1, 1982, for the net book value of the assets in determining  
15 net invested funds for the facility. A determination by the department  
16 of general administration of fair market value shall be final unless  
17 the procedure used to make such determination is shown to be arbitrary  
18 and capricious.

19 (ii) The sum of the financing allowance computed under subsection  
20 (1)(e)(i) of this section and the variable allowance shall be compared  
21 to the annualized lease payment, plus any interest and depreciation  
22 associated with contractor-owned assets, for the period covered by the  
23 prospective rates, divided by the contractor's total ((~~patient~~))  
24 resident days, minus the property cost center rate determined according  
25 to RCW 74.46.510. The lesser of the two amounts shall be called the  
26 alternate return on investment rate.

27 (iii) The return on investment rate determined according to  
28 subsection (1)(d) of this section or the alternate return on investment  
29 rate, whichever is greater, shall be the return on investment rate for  
30 the facility and shall be added to the prospective rates of the  
31 contractor as determined in RCW 74.46.450 through 74.46.510.

32 (f) In the case of a facility which was leased by the contractor as  
33 of January 1, 1980, in an arm's-length agreement, if the lease is  
34 renewed or extended pursuant to a provision of the lease, the treatment  
35 provided in subsection (1)(e) of this section shall be applied except  
36 that in the case of renewals or extensions made subsequent to April 1,  
37 1985, reimbursement for the annualized lease payment shall be no  
38 greater than the reimbursement for the annualized lease payment for the  
39 last year prior to the renewal or extension of the lease.

1 (2) Each biennium, beginning in 1985, the secretary shall review  
2 the adequacy of return on investment rates in relation to anticipated  
3 requirements for maintaining, reducing, or expanding nursing care  
4 capacity. The secretary shall report the results of such review to the  
5 legislature and make recommendations for adjustments in the return on  
6 investment rates utilized in this section, if appropriate.

7 **Sec. 110.** RCW 74.46.560 and 1983 1st ex.s. c 67 s 30 are each  
8 amended to read as follows:

9 The department will notify each contractor in writing of its  
10 prospective (~~(reimbursement)~~) payment rates by the effective dates of  
11 the rates. Unless otherwise specified at the time it is issued,  
12 (~~(the)~~) a rate will be effective from the first day of the month in  
13 which it is issued until a new rate becomes effective. If a rate is  
14 changed as the result of an appeals or exception procedure established  
15 in accordance with RCW 74.46.780, it will be effective as of the date  
16 the appealed rate became effective.

17 **Sec. 111.** RCW 74.46.570 and 1983 1st ex.s. c 67 s 31 are each  
18 amended to read as follows:

19 (1) Prospective rates are subject to adjustment by the department  
20 as a result of errors or omissions by the department or by the  
21 contractor. The department will notify the contractor in writing of  
22 each adjustment and of the effective date of the adjustment, and of any  
23 amount due to the department or to the contractor as a result of the  
24 rate adjustment.

25 (2) If a contractor claims an error or omission based upon  
26 incorrect cost reporting, amended cost report pages shall be prepared  
27 and submitted by the contractor. Amended pages shall be accompanied by  
28 a certification signed by the licensed administrator of the nursing  
29 facility and a written justification explaining why the amendment is  
30 necessary. The certification and justification shall meet such  
31 criteria as are adopted by the department. Such amendments may be used  
32 to revise a prospective rate but shall not be used to revise a  
33 settlement if submitted after commencement of the field audit. All  
34 changes determined to be material by the department shall be subject to  
35 field audit. If changes are found to be incorrect or otherwise  
36 unacceptable, any rate adjustment based thereon shall be null and void  
37 and resulting payments or payment increases shall be subject to refund.

1 (3) The contractor shall pay an amount owed the department  
2 resulting from an error or omission as determined by the department on  
3 or after July 1, 1995, or commence repayment in accordance with a  
4 schedule determined and agreed to in writing by the department, within  
5 sixty days after receipt of notification of the rate adjustment(~~(7~~  
6 ~~unless the contractor contests the department's determination in~~  
7 ~~accordance with the procedures set forth in RCW 74.46.780. If the~~  
8 ~~determination is contested, the contractor shall pay or commence~~  
9 ~~repayment within sixty days after completion of these proceedings)).~~  
10 If a refund as determined by the department is not paid when due, the  
11 amount thereof may be deducted from current payments by the department.  
12 However, neither a timely filed request to pursue the department's  
13 administrative appeals or exception procedure nor commencement of  
14 judicial review, as may be available to the contractor in law, shall  
15 delay recovery.

16 (4) The department shall pay any amount owed the contractor as a  
17 result of a rate adjustment within thirty days after the contractor is  
18 notified of the rate adjustment.

19 (5) No adjustments will be made to a rate more than one hundred  
20 twenty days after the final audit narrative and summary for the period  
21 the rate was effective is sent to the contractor or, if no audit is  
22 held, more than one hundred twenty days after the preliminary  
23 settlement becomes the final settlement, except when a settlement is  
24 reopened as provided in RCW 74.46.170(3).

25 **Sec. 112.** RCW 74.46.640 and 1983 1st ex.s. c 67 s 34 are each  
26 amended to read as follows:

27 (1) Payments to a contractor may be withheld by the department in  
28 each of the following circumstances:

29 (a) A required report is not properly completed and filed by the  
30 contractor within the appropriate time period, including any approved  
31 extension. Payments will be released as soon as a properly completed  
32 report is received;

33 (b) State auditors, department auditors, or authorized personnel in  
34 the course of their duties are refused access to a nursing ((home))  
35 facility or are not provided with existing appropriate records.  
36 Payments will be released as soon as such access or records are  
37 provided;

1 (c) A refund in connection with a preliminary or final settlement  
2 or rate adjustment is not paid by the contractor when due. The amount  
3 withheld will be limited to the unpaid amount of the refund and any  
4 accumulated interest owed to the department as authorized by this  
5 chapter; ((and))

6 (d) Payment for the final ((thirty)) sixty days of service under a  
7 contract will be held in the absence of adequate alternate security  
8 acceptable to the department pending final settlement when the contract  
9 is terminated; and

10 (e) Payment for services at any time during the contract period in  
11 the absence of adequate alternate security acceptable to the  
12 department, if a contractor's net medicaid overpayment liability for  
13 one or more nursing facilities or other debt to the department, as  
14 determined by preliminary settlement, final settlement, civil fines  
15 imposed by the department, third-party liabilities or other source,  
16 reaches or exceeds fifty thousand dollars, whether subject to good  
17 faith dispute or not, and for each subsequent increase in liability  
18 reaching or exceeding twenty-five thousand dollars. Payments will be  
19 released as soon as practicable after acceptable security is provided  
20 or refund to the department is made.

21 (2) No payment will be withheld until written notification of the  
22 suspension is provided to the contractor, stating the reason  
23 ((therefor)) for the withholding, except that neither a request to  
24 pursue the administrative appeals or exception procedure established by  
25 the department in rule nor commencement of judicial review, as may be  
26 available to the contractor in law, shall delay suspension of payment.

27 **Sec. 113.** RCW 74.46.690 and 1985 c 361 s 3 are each amended to  
28 read as follows:

29 (1) When a facility contract is terminated for any reason, the old  
30 contractor shall submit final reports as required by RCW 74.46.040.

31 (2) Upon notification of a contract termination, the department  
32 shall determine by preliminary or final settlement calculations the  
33 amount of any overpayments made to the contractor, including  
34 overpayments disputed by the contractor. If preliminary or final  
35 settlements are unavailable for any period up to the date of contract  
36 termination, the department shall make a reasonable estimate of any  
37 overpayment or underpayments for such periods. The reasonable estimate  
38 shall be based upon prior period settlements, available audit findings,

1 the projected impact of prospective rates, and other information  
2 available to the department. The department shall also determine and  
3 add in the total of all other debts owed to the department regardless  
4 of source, including, but not limited to, interest owed to the  
5 department as authorized by this chapter, civil fines imposed by the  
6 department, or third-party liabilities.

7 (3) The old contractor shall provide security, in a form deemed  
8 adequate by the department, ~~((in))~~ equal to the total amount of  
9 determined and estimated overpayments and all other debts from any  
10 source, whether or not the overpayments are the subject of good faith  
11 dispute. Security shall consist of:

12 (a) Withheld payments due the contractor; or

13 (b) A surety bond issued by a bonding company acceptable to the  
14 department; or

15 (c) An assignment of funds to the department; or

16 (d) Collateral acceptable to the department; or

17 (e) A purchaser's assumption of liability for the prior  
18 contractor's overpayment; ~~((or))~~

19 (f) A promissory note secured by a deed of trust; or

20 (g) Any combination of (a), (b), (c), (d), ~~((or))~~ (e), or (f) of  
21 this subsection.

22 (4) A surety bond or assignment of funds shall:

23 (a) Be at least equal in amount to determined or estimated  
24 overpayments, whether or not the subject of good faith dispute, minus  
25 withheld payments;

26 (b) Be issued or accepted by a bonding company or financial  
27 institution licensed to transact business in Washington state;

28 (c) Be for a term, as determined by the department, sufficient to  
29 ensure effectiveness after final settlement and the exhaustion of any  
30 administrative appeals or exception procedure and judicial remedies, as  
31 may be available to and sought by the contractor, regarding payment,  
32 settlement, civil fine, interest assessment, or other debt issues:

33 PROVIDED, That the bond or assignment shall initially be for a term of  
34 at least five years, and shall be forfeited if not renewed thereafter  
35 in an amount equal to any remaining combined overpayment ~~((in dispute))~~  
36 and debt liability as determined by the department;

37 (d) Provide that the full amount of the bond or assignment, or  
38 both, shall be paid to the department if a properly completed final  
39 cost report is not filed in accordance with this chapter, or if

1 financial records supporting this report are not preserved and made  
2 available to the auditor; and

3 (e) Provide that an amount equal to any recovery the department  
4 determines is due from the contractor (~~(at)~~) from settlement or from  
5 any other source of debt to the department, but not exceeding the  
6 amount of the bond and assignment, shall be paid to the department if  
7 the contractor does not pay the refund and debt within sixty days  
8 following receipt of written demand (~~(or the conclusion of~~  
9 ~~administrative or judicial proceedings to contest settlement issues)~~)  
10 for payment from the department to the contractor.

11 (5) The department shall release any payment withheld as security  
12 if alternate security is provided under subsection (3) of this section  
13 in an amount equivalent to determined and estimated overpayments.

14 (6) If the total of withheld payments, bonds, and assignments is  
15 less than the total of determined and estimated overpayments, the  
16 unsecured amount of such overpayments shall be a debt due the state and  
17 shall become a lien against the real and personal property of the  
18 contractor from the time of filing by the department with the county  
19 auditor of the county where the contractor resides or owns property,  
20 and the lien claim has preference over the claims of all unsecured  
21 creditors.

22 (7) The contractor shall file a properly completed final cost  
23 report in accordance with the requirements of this chapter, which shall  
24 be audited by the department. A final settlement shall be determined  
25 within ninety days following completion of the audit process, including  
26 completion of any administrative appeals or exception procedure review  
27 of the audit requested by the contractor, but not including completion  
28 of any judicial review available to and commenced by the contractor.

29 (8) Following determination of settlement for all periods, security  
30 held pursuant to this section shall be released to the contractor after  
31 all overpayments, erroneous payments, and debts determined in  
32 connection with final settlement, or otherwise, including accumulated  
33 interest owed the department, have been paid by the contractor. (~~(If~~  
34 ~~the contractor contests the settlement determination in accordance with~~  
35 ~~RCW 74.46.170, the department shall hold the security, not to exceed~~  
36 ~~the amount of estimated unrecovered overpayments being contested,~~  
37 ~~pending completion of the administrative appeal process.)~~)

38 (9) If, after calculation of settlements for any periods, it is  
39 determined that overpayments exist in excess of the value of security

1 held by the state, the department may seek recovery of these additional  
2 overpayments as provided by law.

3 ~~(10) ((If a contract is terminated solely in order for the same~~  
4 ~~owner to contract with the department to deliver services to another~~  
5 ~~classification of medical care recipients at the same facility, the~~  
6 ~~contractor is not required to submit final cost reports, and security~~  
7 ~~shall not be required))~~ Regardless of whether a contractor intends to  
8 terminate its medicaid contracts, if a contractor's net medicaid  
9 overpayments and erroneous payments for one or more settlement periods,  
10 and for one or more nursing facilities, combined with debts due the  
11 department, reaches or exceeds a total of fifty thousand dollars, as  
12 determined by preliminary settlement, final settlement, civil fines  
13 imposed by the department, third-party liabilities or by any other  
14 source, whether such amounts are subject to good faith dispute or not,  
15 the department shall demand and obtain security equivalent to the total  
16 of such overpayments, erroneous payments, and debts and shall obtain  
17 security for each subsequent increase in liability reaching or  
18 exceeding twenty-five thousand dollars. Such security shall meet the  
19 criteria in subsections (3) and (4) of this section, except that the  
20 department shall not accept an assumption of liability. The department  
21 shall withhold all or portions of a contractor's current contract  
22 payments or impose liens, or both, if security acceptable to the  
23 department is not forthcoming. The department shall release a  
24 contractor's withheld payments or lift liens, or both, if the  
25 contractor subsequently provides security acceptable to the department.  
26 This subsection shall apply to all overpayments and erroneous payments  
27 determined by preliminary or final settlements issued on or after July  
28 1, 1995, regardless of what payment periods the settlements may cover  
29 and shall apply to all debts owed the department from any source,  
30 including interest debts, which become due on or after July 1, 1995.

31 **Sec. 114.** RCW 74.46.770 and 1983 1st ex.s. c 67 s 39 are each  
32 amended to read as follows:

33 (1) For all nursing facility medicaid payment rates effective on or  
34 after July 1, 1995, and for all settlements and audits issued on or  
35 after July 1, 1995, regardless of what periods the settlements or  
36 audits may cover, if a contractor wishes to contest the way in which a  
37 rule ((or contract provision)) relating to the ((prospective cost-  
38 related reimbursement)) medicaid payment rate system was applied to the

1 contractor by the department, it shall ~~((first))~~ pursue the  
2 ~~((administrative review process set forth in))~~ appeals or exception  
3 procedure established by the department in rule authorized by RCW  
4 74.46.780.

5 (2) ~~((The administrative review and fair hearing process in RCW~~  
6 ~~74.46.780 need not be exhausted if a contractor wishes to challenge the~~  
7 ~~legal validity of a statute, rule, or contract provision.))~~ If a  
8 contractor wishes to challenge the legal validity of a statute, rule,  
9 or contract provision or wishes to bring a challenge based in whole or  
10 in part on federal law, including but not limited to issues of  
11 procedural or substantive compliance with the federal medicaid minimum  
12 payment standard for long-term care facility services, the appeals or  
13 exception procedure established by the department in rule may not be  
14 used for these purposes. This prohibition shall apply regardless of  
15 whether the contractor wishes to obtain a decision or ruling on an  
16 issue of validity or federal compliance or wishes only to make a record  
17 for the purpose of subsequent judicial review.

18 (3) If a contractor wishes to challenge the legal validity of a  
19 statute, rule, or contract provision relating to the medicaid payment  
20 rate system, or wishes to bring a challenge based in whole or in part  
21 on federal law, it must bring such action de novo in a court of proper  
22 jurisdiction as may be provided by law.

23 **Sec. 115.** RCW 74.46.780 and 1989 c 175 s 159 are each amended to  
24 read as follows:

25 ~~((1) Within twenty-eight days after a contractor is notified of an~~  
26 ~~action or determination it wishes to challenge, the contractor shall~~  
27 ~~request in writing that the secretary review such determination. The~~  
28 ~~request shall be signed by the contractor or the licensed administrator~~  
29 ~~of the facility, shall identify the challenged determination and the~~  
30 ~~date thereof, and shall state as specifically as practicable the~~  
31 ~~grounds for its contention that the determination was erroneous.~~  
32 ~~Copies of any documentation on which the contractor intends to rely to~~  
33 ~~support its position shall be included with the request.~~

34 (2) ~~After receiving a request meeting the above criteria, the~~  
35 ~~secretary or his designee will contact the contractor to schedule a~~  
36 ~~conference for the earliest mutually convenient time. The conference~~  
37 ~~shall be scheduled for no later than ninety days after a properly~~



1 completed request is received unless both parties agree in writing to  
2 a specified later date.

3 (3) ~~The contractor and appropriate representatives of the~~  
4 ~~department shall attend the conference. In addition, representatives~~  
5 ~~selected by the contractor may attend and participate. The contractor~~  
6 ~~shall provide to the department in advance of the conference any~~  
7 ~~documentation on which it intends to rely to support its contentions.~~  
8 ~~The parties shall clarify and attempt to resolve the issues at the~~  
9 ~~conference. If additional documentation is needed to resolve the~~  
10 ~~issues, a second session of the conference shall be scheduled for not~~  
11 ~~later than twenty eight days after the initial session unless both~~  
12 ~~parties agree in writing to a specific later date.~~

13 (4) ~~A written decision by the secretary will be furnished to the~~  
14 ~~contractor within sixty days after the conclusion of the conference.~~

15 (5) ~~If the contractor desires review of an adverse decision of the~~  
16 ~~secretary, it shall within twenty eight days following receipt of such~~  
17 ~~decision file a written application for an adjudicative proceeding.~~  
18 ~~The proceeding is governed by chapter 34.05 RCW, the Administrative~~  
19 ~~Procedure Act.)) For all nursing facility medicaid payment rates  
20 effective on or after July 1, 1995, and for all audits completed and  
21 settlements issued on or after July 1, 1995, regardless of what periods  
22 the payment rates, audits, or settlements may cover, the department  
23 shall establish in rule, consistent with federal requirements for  
24 nursing facilities participating in the medicaid program, an appeals or  
25 exception procedure that allows individual nursing care providers an  
26 opportunity to submit additional evidence and receive prompt  
27 administrative review of payment rates with respect to such issues as  
28 the department deems appropriate.~~

29 **Sec. 116.** 1995 c 260 s 12 (uncodified) is amended to read as  
30 follows:

31 Sections 7 through 11 of this act shall take effect ((January))  
32 July 1, 1996.

33 **Sec. 117.** RCW 70.128.120 and 1995 c 260 s 5 are each amended to  
34 read as follows:

35 An adult family home provider shall have the following minimum  
36 qualifications:

37 (1) Twenty-one years of age or older;

- 1 (2) Good moral and responsible character and reputation;  
2 (3) Literacy;  
3 (4) Management and administrative ability to carry out the  
4 requirements of this chapter;  
5 (5) Satisfactory completion of department-approved initial training  
6 and continuing education training as specified by the department in  
7 rule;  
8 (6) Satisfactory completion of department-approved, or equivalent,  
9 special care training before a provider may provide special care  
10 services to a resident;  
11 (7) Not been convicted of any crime listed in RCW 43.43.830 and  
12 43.43.842; and  
13 (8) Effective July 1, 1996, registered with the department of  
14 health.

15 NEW SECTION. **Sec. 118.** If any part of this act is found to be in  
16 conflict with federal requirements that are a prescribed condition to  
17 the allocation of federal funds to the state, the conflicting part of  
18 this act is inoperative solely to the extent of the conflict and with  
19 respect to the agencies directly affected, and this finding does not  
20 affect the operation of the remainder of this act in its application to  
21 the agencies concerned. The rules under this act shall meet federal  
22 requirements that are a necessary condition to the receipt of federal  
23 funds by the state.

24 NEW SECTION. **Sec. 119.** If any provision of this act or its  
25 application to any person or circumstance is held invalid, the  
26 remainder of the act or the application of the provision to other  
27 persons or circumstances is not affected.

28 NEW SECTION. **Sec. 120.** This act is necessary for the immediate  
29 preservation of the public peace, health, or safety, or support of the  
30 state government and its existing public institutions, and shall take  
31 effect July 1, 1995."

32 **2SHB 1908** - H AMD  
33 By

34

1       On page 1, line 1 of the title, after "care;" strike the remainder  
2 of the title and insert "amending RCW 74.39.005, 74.39.040, 74.39A.010,  
3 70.128.007, 70.128.057, 70.128.070, 70.128.080, 70.128.090, 70.128.140,  
4 70.128.150, 70.128.160, 70.128.175, 43.190.020, 43.190.060, 74.08.545,  
5 74.09.520, 74.08.550, 74.08.570, 18.51.091, 18.51.140, 18.51.300,  
6 18.79.040, 18.79.260, 18.88A.030, 11.40.010, 11.42.020, 11.62.010,  
7 11.28.120, 18.39.250, 18.39.255, 74.42.450, 68.46.050, 70.129.040,  
8 43.20B.080, 74.42.020, 74.46.450, 70.38.111, 70.38.115, 70.38.125,  
9 48.85.010, 48.85.020, 48.85.030, 48.85.040, 48.85.050, 74.09.585,  
10 74.34.010, 74.34.100, 74.34.020, 74.34.070, 74.34.030, 74.46.020,  
11 74.46.105, 74.46.115, 74.46.160, 74.46.170, 74.46.180, 74.46.190,  
12 74.46.410, 74.46.420, 74.46.430, 74.46.450, 74.46.460, 74.46.470,  
13 74.46.481, 74.46.490, 74.46.500, 74.46.505, 74.46.510, 74.46.530,  
14 74.46.560, 74.46.570, 74.46.640, 74.46.690, 74.46.770, 74.46.780, and  
15 70.128.120; amending 1995 c 260 s 12 (uncodified); adding new sections  
16 to chapter 74.39A RCW; adding new sections to chapter 70.41 RCW; adding  
17 new sections to chapter 74.42 RCW; adding a new section to chapter  
18 18.20 RCW; adding new sections to chapter 70.128 RCW; adding new  
19 sections to chapter 18.88A RCW; adding new sections to chapter 74.46  
20 RCW; adding new sections to chapter 74.34 RCW; creating new sections;  
21 recodifying RCW 74.08.530, 74.08.560, 74.08.570, 74.08.545, 74.08.550,  
22 and 74.34.100; repealing RCW 70.128.180, 74.08.541, 74.46.420,  
23 74.46.430, 74.46.440, 74.46.450, 74.46.460, 74.46.465, 74.46.470,  
24 74.46.481, 74.46.490, 74.46.500, 74.46.505, 74.46.510, 74.46.530,  
25 74.46.540, 74.46.550, 74.46.560, 74.46.570, 74.46.580, and 74.46.590;  
26 prescribing penalties; providing an effective date; and declaring an  
27 emergency."

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