

2 EHB 2410 - S COMM AMD

3 By Committee on Health & Long-Term Care

4

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

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 18.20 RCW
8 to read as follows:

9 (1) Powers and duties regarding boarding homes, previously assigned
10 under this chapter to the department of health and to the secretary of
11 health, are by this section transferred to the department of social and
12 health services and to the secretary of social and health services,
13 respectively. This section further provides that, regarding boarding
14 homes, all references within the Revised Code of Washington to the
15 department of health and to the secretary of health mean the department
16 of social and health services and the secretary of social and health
17 services, respectively.

18 (2)(a) The department of health shall deliver to the department of
19 social and health services all reports, documents, surveys, books,
20 records, data, files, papers, and written material pertaining to
21 boarding homes and the powers, functions, and duties transferred by
22 this section. The department of health shall make available to the
23 department of social and health services all cabinets, furniture,
24 office equipment, motor vehicles, and other tangible property employed
25 by the department of health in carrying out the powers, functions, and
26 duties transferred by this section. The department of health shall
27 assign to the department of social and health services all funds,
28 credits, and other assets that the department of health possesses in
29 connection with the power, functions, and duties transferred by this
30 section.

31 (b) On the effective date of this section, the department of health
32 shall transfer to the department of social and health services any
33 appropriations and license fees made to or possessed by the department
34 of health for carrying out the powers, functions, and duties
35 transferred by this section.

1 (c) When a question arises regarding the transfer of personnel,
2 funds, books, documents, records, papers, files, equipment, or other
3 tangible property used or held in the exercise of the powers,
4 functions, and duties transferred by this section, the director of
5 financial management shall determine the proper allocation and shall
6 certify that determination to the state agencies concerned.

7 (3) The department of social and health services shall continue and
8 shall act upon all rules and pending business before the department of
9 health pertaining to the powers, functions, and duties transferred by
10 this section.

11 (4) The transfer of powers, functions, duties, and personnel from
12 the department of health to the department of social and health
13 services, as mandated by this section, will not affect the validity of
14 any act performed by the department of health regarding boarding homes
15 before the effective date of this section.

16 (5) If apportionments of budgeted funds are required because of the
17 transfers mandated by this section, the director of financial
18 management shall certify the apportionments to the agencies affected,
19 the state auditor, and the state treasurer. Each of these shall make
20 the necessary transfers and adjustments in funds, appropriation
21 accounts, and equipment records in accordance with the certification.

22 (6) Nothing contained in this section alters any existing
23 collective bargaining unit or the provisions of any existing collective
24 bargaining agreement until the agreement expires or until the
25 bargaining unit is modified by action of the personnel board as
26 provided by law.

27 **Sec. 2.** RCW 18.20.020 and 1991 c 3 s 34 are each amended to read
28 as follows:

29 As used in this chapter:

30 (1) "Aged person" means a person of the age sixty-five years or
31 more, or a person of less than sixty-five years who by reason of
32 infirmity requires domiciliary care.

33 (2) "Boarding home" means any home or other institution, however
34 named, which is advertised, announced or maintained for the express or
35 implied purpose of providing board and domiciliary care to three or
36 more aged persons not related by blood or marriage to the operator. It
37 shall not include facilities certified as group training homes pursuant
38 to RCW 71A.22.040, nor any home, institution or section thereof which

1 is otherwise licensed and regulated under the provisions of state law
2 providing specifically for the licensing and regulation of such home,
3 institution or section thereof. Nor shall it include any independent
4 senior housing, independent living units in continuing care retirement
5 communities, or other similar living situations including those
6 subsidized by the department of housing and urban development.

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

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

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

13 (6) "Authorized department" means any city, county, city-county
14 health department or health district authorized by the secretary ((of
15 health)) to carry out the provisions of this chapter.

16 **Sec. 3.** RCW 18.20.190 and 1995 1st sp.s. c 18 s 18 are each
17 amended to read as follows:

18 (1) The department of social and health services is authorized to
19 take one or more of the actions listed in subsection (2) of this
20 section in any case in which the department finds that a boarding home
21 provider has:

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

24 (b) Operated a boarding home without a license or under a revoked
25 license;

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

30 (d) Willfully prevented or interfered with any inspection or
31 investigation by the department.

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

34 (a) Refuse to issue a license;

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

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

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

4 (e) Suspend admissions to the boarding home by imposing stop
5 placement.

6 (3) When the department orders stop placement, the facility shall
7 not admit any new resident until the stop placement order is
8 terminated. The department may approve readmission of a resident to
9 the facility from a hospital or nursing home during the stop placement.
10 The department shall terminate the stop placement when: (a) The
11 violations necessitating the stop placement have been corrected; and
12 (b) the provider exhibits the capacity to maintain adequate care and
13 service.

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

19 NEW SECTION. **Sec. 4.** A new section is added to chapter 18.20 RCW
20 to read as follows:

21 The secretary may adopt rules and policies as necessary to entitle
22 the state to participate in federal funding programs and opportunities
23 and to facilitate state and federal cooperation in programs under the
24 department's jurisdiction. The secretary shall ensure that any
25 internal reorganization carried out under the terms of this chapter
26 complies with prerequisites for the receipt of federal funding for the
27 various programs under the department's control. When interpreting any
28 department-related section or provision of law susceptible to more than
29 one interpretation, the secretary shall construe that section or
30 provision in the manner most likely to comply with federal laws and
31 rules entitling the state to receive federal funds for the various
32 programs of the department. If any law or rule dealing with the
33 department is ruled to be in conflict with federal prerequisites to the
34 allocation of federal funding to the state, the department, or its
35 agencies, the secretary shall declare that law or rule inoperative
36 solely to the extent of the conflict.

1 NEW SECTION. **Sec. 5.** (1) The governor shall establish a joint
2 legislative and executive task force on long-term care, safety,
3 quality, and oversight. The joint task force shall consist of seven
4 members. The governor shall appoint three members that include: (a)
5 The secretary of the department of social and health services or his or
6 her designee; (b) the secretary of the department of health or his or
7 her designee; and (c) the state long-term care ombudsman. Four
8 legislative members shall serve on the joint task force as ex officio
9 members and include: Two members of the senate appointed by the
10 president of the senate, one of whom shall be a member of the majority
11 caucus and one whom shall be a member of the minority caucus; and two
12 members of the house of representatives appointed by the speaker of the
13 house of representatives, one of whom shall be a member of the majority
14 caucus and one whom shall be a member of the minority caucus. Primary
15 staff assistance to the joint task force shall be provided by the
16 office of financial management with assistance, as directed by
17 legislative members, by the health care committee of the house of
18 representatives office of program research and the senate health and
19 long-term care committee of senate committee services.

20 (2) The joint task force shall elect a chair and vice-chair. The
21 chair shall serve a one-year term as the chair of the joint task force.
22 The following year, the previously elected vice-chair shall serve as
23 the chair of the joint task force and a new vice-chair shall be elected
24 by the members of the joint task force.

25 (3) The joint task force shall have the ability to create advisory
26 committees and appoint individuals from a variety of disciplines and
27 perspectives including but not limited to patient and resident
28 advocates and representatives of provider organizations, to assist the
29 joint task force with specific issues related to chapter . . . , Laws of
30 1998 (this act).

31 (4) The joint task force may hold meetings, including hearings, to
32 receive public testimony, which shall be open to the public in
33 accordance with law. Records of the joint task force shall be subject
34 to public disclosure in accordance with law. Members shall not receive
35 compensation, but may be reimbursed for travel expenses as authorized
36 under RCW 43.03.050 and 43.03.060. Advisory committee members, if
37 appointed, shall not receive compensation or reimbursement for travel
38 or expenses.

39 (5) The joint task force shall:

1 (a) Review all long-term care quality and safety standards for all
2 long-term care facilities and services developed, revised, and enforced
3 by the department of social and health services;

4 (b) In cooperation with aging and adult services, the division of
5 developmental disabilities, and the division of mental health and the
6 department of health, develop recommendations to simplify, strengthen,
7 reduce, or eliminate rules, procedures, and burdensome paperwork that
8 prove to be barriers to providing the highest standard of client
9 safety, effective quality of care, effective client protections, and
10 effective coordination of direct services;

11 (c) Review the need for reorganization and reform of long-term care
12 administration and service delivery, including administration and
13 services provided for the aged, for those with mental health needs, and
14 for the developmentally disabled, and recommend the establishment of a
15 single long-term care department or a division of long-term care within
16 the department of social and health services;

17 (d) Suggest cost-effective methods for reallocating funds to unmet
18 needs in direct services;

19 (e) List all nonmeans tested programs and activities funded by the
20 federal older Americans act and state-funded senior citizens act or
21 other such state-funded programs, and recommend methods for integrating
22 such services into existing long-term care programs for the
23 functionally disabled;

24 (f) Suggest methods to establish a single point of entry for
25 service eligibility and delivery for all functionally disabled persons;

26 (g) Evaluate the need for long-term care training and review all
27 long-term care training and education programs conducted by the
28 department of social and health services, and suggest modifications to
29 enhance client safety, to create greater access to training through the
30 use of innovative technology, to reduce training costs, to improve
31 coordination of training between the appropriate divisions and
32 departments and, to enhance the overall uniformity of the long-term
33 care training system;

34 (h) Evaluate the current system used by the department of social
35 and health services for placement of functionally disabled clients,
36 including aging, mentally ill, and developmentally disabled persons,
37 into long-term care settings and services and assess the capacity of
38 each long-term care service or setting to appropriately meet the health

1 and safety needs of functionally disabled clients or residents referred
2 to each service or setting;

3 (i) Evaluate the need for uniform client assessments for
4 determining functional long-term care needs of all persons who receive
5 state-funded, long-term care services;

6 (j) Evaluate the success of the transfer of boarding home
7 responsibilities outlined in chapter . . . , Laws of 1998 (this act) and
8 recommend if any further administrative changes should be made; and

9 (k) Evaluate the need to establish a dementia and Alzheimer's
10 certification requirement for long-term care facilities who choose to
11 provide care to persons who have been diagnosed with Alzheimer's or a
12 related dementia. The evaluation shall also identify the level of
13 disability a resident or client must have before the resident or client
14 is considered for care in a certified long-term care Alzheimer's
15 facility.

16 (6) The joint task force shall report its initial findings and
17 recommendations to the governor and appropriate committees of the
18 legislature by January 1, 1999. The joint task force shall report its
19 final findings and recommendations to the governor and appropriate
20 committees of the legislature by December 12, 1999.

21 **Sec. 6.** RCW 18.20.160 and 1985 c 297 s 2 are each amended to read
22 as follows:

23 (1) No person operating a boarding home licensed under this chapter
24 shall admit to or retain in the boarding home any aged person requiring
25 nursing or medical care of a type provided by institutions licensed
26 under chapters 18.51, 70.41 or 71.12 RCW, except that when registered
27 nurses are available, and upon a doctor's order that a supervised
28 medication service is needed, it may be provided. Supervised
29 medication services, as defined by the department, may include an
30 approved program of self-medication or self-directed medication. Such
31 medication service shall be provided only to boarders who otherwise
32 meet all requirements for residency in a boarding home.

33 (2)(a) Notwithstanding any provision contained in this section, in
34 no case shall a resident be bedbound, as a result of illness or
35 disease, for any continuous period of time exceeding one hundred twenty
36 hours, unless the resident's attending physician has seen the resident
37 and assessed the resident's medical condition, prescribed a plan of

1 care, and determined that a continued stay in the boarding home is
2 appropriate.

3 (b) Residents who continue to be bedbound for more than nine
4 consecutive days shall be seen by their attending physician at least
5 every thirty days, counting from the date of the initial bedbound-
6 related physician visit, for as long as the resident continues to be
7 bedbound.

8 (c) The physician and the boarding home shall document each visit
9 and the physician shall, at each visit, prescribe a plan of care and
10 redetermine the appropriateness of the resident's continued stay in the
11 boarding home.

12 (3) For the purposes of this section, an illness or disease does
13 not include any illness or disease for which the resident has elected
14 to receive hospice care and chooses to remain in the boarding home.
15 When the resident elects to receive hospice care, an outside licensed
16 agency is responsible for performing timely and appropriate visits and
17 for developing a plan of care.

18 **Sec. 7.** RCW 70.128.060 and 1995 c 260 s 4 are each amended to read
19 as follows:

20 (1) An application for license shall be made to the department upon
21 forms provided by it and shall contain such information as the
22 department reasonably requires.

23 (2) The department shall issue a license to an adult family home if
24 the department finds that the applicant and the home are in compliance
25 with this chapter and the rules adopted under this chapter, unless (a)
26 the applicant has prior violations of this chapter relating to the
27 adult family home subject to the application or any other adult family
28 home, or of any other law regulating residential care facilities within
29 the past five years that resulted in revocation or nonrenewal of a
30 license; or (b) the applicant has a history of significant
31 noncompliance with federal, state, or local laws, rules, or regulations
32 relating to the provision of care or services to vulnerable adults or
33 to children.

34 (3) The license fee shall be submitted with the application.

35 (4) The department shall serve upon the applicant a copy of the
36 decision granting or denying an application for a license. An
37 applicant shall have the right to contest denial of his or her
38 application for a license as provided in chapter 34.05 RCW by

1 requesting a hearing in writing within twenty-eight days after receipt
2 of the notice of denial.

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

9 (6)(a) The department shall license an adult family home for the
10 maximum level of care that the adult family home may provide. However,
11 in no case shall the adult family home admit or retain residents who
12 are bedbound, as a result of illness or disease, for any continuous
13 period of time exceeding one hundred twenty hours, unless the
14 resident's attending physician has seen the resident to assess their
15 medical condition, prescribed a plan of care, and determined that a
16 continued stay in the adult family home is appropriate.

17 (b) Residents who continue to be bedbound for more than nine
18 consecutive days shall be seen by their attending physician at least
19 every thirty days, counting from the date of the initial bedbound-
20 related physician visit, for as long as the resident continues to be
21 bedbound.

22 (c) The physician and adult family home shall document each visit
23 and the physician shall, at each visit, prescribe a plan of care and
24 redetermine the continued appropriateness of the resident remaining in
25 the adult family home.

26 (d) The department shall further define, in rule, license levels
27 based upon the education, training, and caregiving experience of the
28 licensed provider or staff.

29 (e) For the purposes of this section, an illness or disease does
30 not include any illness or disease for which the resident has elected
31 to receive hospice care and chooses to remain in the adult family home.
32 When the resident elects to receive hospice care, an outside licensed
33 agency is responsible for performing timely and appropriate visits and
34 for developing a plan of care.

35 (7) The department shall establish, by rule, standards used to
36 license nonresident providers and multiple facility operators.

37 (8) The department shall establish, by rule, for multiple facility
38 operators educational standards substantially equivalent to recognized
39 national certification standards for residential care administrators.

1 (9) The license fee shall be set at fifty dollars per year for each
2 home. A fifty dollar processing fee shall also be charged each home
3 when the home is initially licensed.

4 NEW SECTION. **Sec. 8.** The sum of fifty thousand dollars, or as
5 much thereof as may be necessary, is appropriated for the fiscal year
6 ending June 30, 1999, from the general fund to the office of financial
7 management solely for the purposes of implementing section 5 of this
8 act.

9 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
10 preservation of the public peace, health, or safety, or support of the
11 state government and its existing public institutions, and takes effect
12 immediately.

13 NEW SECTION. **Sec. 10.** (1) Sections 1 through 4 of this act expire
14 July 1, 2000, unless reauthorized by the legislature.

15 (2) Section 5 of this act expires December 12, 1999.

16 NEW SECTION. **Sec. 11.** If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected."

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23 On page 1, line 1 of the title, after "homes;" strike the remainder
24 of the title and insert "amending RCW 18.20.020, 18.20.190, 18.20.160,
25 and 70.128.060; adding new sections to chapter 18.20 RCW; creating a
26 new section; making an appropriation; providing a contingent expiration
27 date; providing an expiration date; and declaring an emergency."

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