
SENATE BILL 5918

State of Washington

55th Legislature

1997 Regular Session

By Senator Wood

Read first time 02/19/97. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to long-term care; amending RCW 74.39A.008,
2 74.39A.050, 74.39A.060, 70.129.030, 70.129.105, 70.129.110, 70.129.150,
3 70.128.175, 18.20.020, and 18.20.190; adding new sections to chapter
4 74.39A RCW; adding a new section to chapter 18.20 RCW; providing an
5 effective date; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature recognizes that most long-
8 term care facilities in this state provide appropriate and high quality
9 care for their residents, who are frail, elderly, and disabled. The
10 legislature finds, however, that too many instances have been brought
11 to its attention of poor care, insufficiently trained facility staff,
12 and inadequate state monitoring of facilities.

13 The legislature finds that many residents of long-term care
14 facilities are exceptionally vulnerable and their health and well-being
15 are often dependent on their caregivers. The legislature reaffirms its
16 intention in the residents' rights law, chapter 70.129 RCW, and in the
17 elder abuse law, chapter 74.34 RCW, that residents in all long-term
18 care facilities should receive appropriate and needed services, be

1 treated with courtesy and respect, and not be subject to abuse,
2 neglect, or exploitation.

3 The legislature also reaffirms its intention that the monitoring of
4 long-term care facilities by state regulatory agencies must be based
5 upon a combination of clear, reasonable rules; consultation and
6 technical assistance for providers when needed; the inclusion of
7 residents, their families, complainants, and others in licensing
8 inspections and complaint investigations; and prompt, definite
9 penalties for violations that are serious or recurring or negatively
10 impact residents.

11 The legislature further finds that the division of state oversight
12 of long-term care facilities between two different state agencies has
13 led to inconsistent monitoring and is not an effective, efficient use
14 of state resources. These state responsibilities should be combined
15 and coordinated within one state agency.

16 The legislature further finds that the quality of staff in long-
17 term care facilities is often the key to good care. The need for well-
18 trained staff, and well-managed facilities, is growing as the state's
19 population ages and the acuity of the health care problems of residents
20 increases. To better protect and care for residents, the legislature
21 directs that the training standards for facility caregiver staff must
22 be enhanced, and that staff serving residents with special needs, such
23 as mental illness or dementia, must receive additional training.

24 **Sec. 2.** RCW 74.39A.008 and 1995 1st sp.s. c 18 s 1 are each
25 amended to read as follows:

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

28 (1) "Adult family home" means a facility licensed under chapter
29 70.128 RCW.

30 (2) "Adult residential care" means personal care services provided
31 by a boarding home that is licensed under chapter 18.20 RCW and that
32 has a contract with the department under RCW 74.39A.020.

33 (3) "Aging and adult services administration" means the aging and
34 adult services administration of the department.

35 (4) "Assisted living services" means services provided by a
36 boarding home that has a contract with the department under RCW
37 74.39A.010 and the resident is housed in a private apartment-like unit.

1 (5) "Boarding home" means a facility licensed under chapter 18.20
2 RCW.

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

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

13 (8) "Home and community services" means assisted living services,
14 enhanced adult residential care, adult residential care, adult family
15 homes, boarding homes, in-home services, and other services
16 administered by the aging and adult services administration of the
17 department directly or through contract with area agencies on aging or
18 similar services provided by facilities and agencies licensed by the
19 department.

20 (9) "Long-term care services" means the services administered
21 directly or through contract, or under license, by the aging and adult
22 services administration of the department or by long-term care
23 facilities, including but not limited to nursing facility care and home
24 and community services.

25 (10) "Enhanced adult residential care" means personal care services
26 and limited nursing services, as defined by the department ((of
27 health)) in rule, which services are provided by a boarding home that
28 is licensed under chapter 18.20 RCW and that has a contract with the
29 department under RCW 74.39A.020.

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

33 (12) "Nursing home" means a facility licensed under chapter 18.51
34 RCW.

35 (13) "Tribally licensed boarding home" means a boarding home
36 licensed by a federally recognized Indian tribe which home provides
37 services similar to boarding homes licensed under chapter 18.20 RCW.

1 **Sec. 3.** RCW 74.39A.050 and 1995 1st sp.s. c 18 s 12 are each
2 amended to read as follows:

3 The department's system of quality improvement for long-term care
4 services shall ~~((be guided by))~~ use the following principles,
5 consistent with applicable federal laws and regulations:

6 (1) The system shall be resident centered or, in the home setting,
7 consumer centered and promote privacy, independence, dignity, choice,
8 and a home or home-like environment for residents and consumers.

9 (2) The goal of the system is continuous quality improvement with
10 the focus on consumer satisfaction and outcomes for residents and
11 consumers. When conducting or preparing for licensing inspections or
12 contract monitoring, the department shall interview an appropriate
13 percentage of residents or consumers, family members, and case managers
14 and advocates who have resident, consumer, or facility-specific
15 information, in addition to interviewing providers and staff.

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

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

20 (5) Monitoring should be outcome based and responsive to resident
21 and consumer complaints and a clear set of health, quality of care, and
22 safety standards that are easily understandable and have been made
23 available to providers.

24 (6) Facility-based providers ~~((generally))~~ at all levels of care
25 should be assisted in addressing identified problems, including those
26 with potential for harm, initially through consultation and technical
27 assistance, unless the safety, health, or well-being of a resident is
28 endangered. Prompt, strict, and specific enforcement remedies shall be
29 ((available)) implemented for providers found to have delivered care,
30 or failed to deliver care, resulting in problems that are serious,
31 recurring, or ((that have been)) uncorrected or negatively impact a
32 resident. The enforcement remedies include, but are not limited to,
33 those set forth in RCW 74.39A.080, 18.20.190, 70.128.160, and chapter
34 18.51 RCW. The enforcement remedies for substantiated violations of
35 the rules applicable to the provider must be set forth by rule by the
36 department. In the implementation of remedies, the safety and
37 physical, emotional, and mental well-being of residents must be of
38 paramount importance.

1 (7) To the extent of available funding, providers at all levels and
2 their staff must be screened in a uniform and timely manner to ensure
3 that they do not have a criminal history that would disqualify them
4 from working with vulnerable adults. No provider or staff, or
5 prospective provider or staff, with a final decision entered into the
6 state registry or with the department finding them guilty of abuse,
7 neglect, exploitation, or abandonment of a minor, or a vulnerable adult
8 as defined in chapter 74.34 RCW, may be employed in the care of and
9 have unsupervised access to vulnerable adults.

10 (8) The training and qualification standards for facility-based
11 providers of long-term care services and their caregiving staff must be
12 enhanced to further ensure that providers and staff possess adequate
13 skills, education, and training to provide the highest quality of care
14 consistent with the needs of the residents. The initial training
15 requirement for all facility-based providers and caregiving staff must
16 be not less than seventy-five hours, with annual continuing education.
17 Providers and caregiving staff who serve residents with specialized
18 care needs, including but not limited to those associated with
19 dementia, traumatic brain injury, mental illness, and developmental
20 disabilities, shall complete additional training regarding the care of
21 such individuals. The training requirements must be effective upon the
22 adoption of standards by the department by rule. The standards must be
23 developed with the input of resident and provider representatives and
24 other vested interest groups. The standards must include coursework
25 and practical clinical training and must include competency testing
26 with an examination and a demonstration of skills. Prospective and
27 current providers and caregiving staff with professional health care
28 licenses may be exempted from the minimum training requirement, if
29 their prior health care license training was seventy-five hours or
30 more, and upon successful completion of competency testing; however, no
31 providers or staff may be exempted from the portion of the training
32 concerning residents' rights. Prior training required by the
33 department of current providers or staff, if successfully completed,
34 shall be credited toward the seventy-five hour minimum requirement of
35 this subsection.

36 (9) After the effective date of the department's rule adopted
37 pursuant to subsection (8) of this section, prospective providers and
38 prospective resident managers shall complete the training requirements
39 prior to receiving a license and providing care to residents.

1 Prospective caregiving staff shall complete a minimum of sixteen hours
2 of training on key areas of resident care prior to any direct contact
3 with a resident. The remainder of the training requirements for
4 caregiving staff must be completed within four months of the date of
5 employment. Until the training is successfully completed, caregiving
6 staff hired after the effective date of the department's rule shall
7 provide care only under the direct supervision of an individual who has
8 successfully completed the training requirements. Current providers
9 and caregiving staff shall complete the training requirements within
10 four months of the adoption of rules by the department.

11 (10) In implementing the requirements of subsection (8) of this
12 section, the department shall promote the development of a training
13 system that is practical and relevant to the needs of residents,
14 providers, and staff. To improve access to training, especially for
15 rural communities, the training system may include, but is not limited
16 to, the use of satellite technology distance learning that is
17 coordinated through community colleges or other entities, long-term
18 care facility-based training and mentoring, training through area
19 agencies on aging, and training by other entities with expertise on
20 long-term care or specialized care needs. The training provider or
21 entity must first be approved by the department and may not include
22 facilities or individuals with a history of significant noncompliance
23 with federal or state laws or rules concerning the care of vulnerable
24 adults or children.

25 (11) The cost for compliance with the training requirements of
26 subsection (8) of this section may not be at public expense, except
27 that the department's reimbursement rate for facilities with a contract
28 with the department shall compensate facilities on a pro rata basis
29 based upon the number of state-funded residents that the facility
30 serves.

31 **Sec. 4.** RCW 74.39A.060 and 1995 1st sp.s. c 18 s 13 are each
32 amended 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.

37 (2) All facilities that are licensed by, or that contract with the
38 aging and adult services administration to provide long-term care

1 services shall post in a place and manner clearly visible to residents
2 and visitors the department's toll-free complaint telephone number and
3 the toll-free number and program description of the long-term care
4 ombudsman, as provided by RCW 43.190.050.

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; or (b)
9 there is no reasonable basis for investigation(~~(; or (c) corrective~~
10 ~~action has 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 or if its investigation
15 reveals that a follow-up referral to one or more of these entities is
16 appropriate.

17 (5) The department shall adopt rules that include the following
18 complaint investigation protocols for all long-term care services:

19 (a) Upon receipt of a complaint, the department shall make a
20 preliminary review of the complaint, assess the severity of the
21 complaint, and, unless the complaint is intended to willfully harass a
22 licensee or employee of the licensee or there is no reasonable basis
23 for investigation, assign an appropriate response time. Complaints
24 involving imminent danger to the health, safety, or well-being of a
25 resident must be responded to within at least two days. In all
26 assigned cases, the department shall make an on-site investigation
27 within a reasonable time after receipt of the complaint or otherwise
28 ensure that complaints are responded to.

29 (b) The complainant must be: Promptly contacted by the department
30 and informed of the right to meet the investigator at the site of the
31 alleged violations, unless the investigator determines that the privacy
32 of residents would be violated or compromised or the investigator
33 determines that imminent danger to the resident necessitates an initial
34 response before the complainant is available; informed of the
35 department's proposed course of action; and informed of the right to
36 receive a written copy of the investigation report.

37 (c) In conducting the investigation, the department shall interview
38 the complainant, unless anonymous, and shall use its best efforts to
39 interview the resident or residents allegedly harmed by the violations,

1 and, in addition to facility staff, any available independent sources
2 of relevant information, including if appropriate the family members of
3 these residents.

4 (d) After a department finding of a violation that is serious,
5 recurring, or uncorrected following a previous citation, the department
6 shall make an on-site revisit of the facility to ensure correction of
7 the violation.

8 (e) Substantiated complaints involving neglect, abuse,
9 exploitation, or abandonment of residents, or suspected criminal
10 violations, must also be referred to appropriate law enforcement
11 agencies, the attorney general, and appropriate professional
12 disciplinary boards.

13 (6) The department may not provide the substance of the complaint
14 to the licensee or contractor before the completion of the
15 investigation by the department. Neither the substance of the
16 complaint provided to the licensee or contractor nor any copy of the
17 complaint or related report published, released, or made otherwise
18 available shall disclose, or reasonably lead to the disclosure of, the
19 name, title, or identity of any complainant, or other person mentioned
20 in the complaint, except that the name of the provider and the name or
21 names of any officer, employee, or agent of the department conducting
22 the investigation shall be disclosed. The department may disclose the
23 identity of the complainant if such disclosure is requested in writing
24 by the complainant. Nothing in this subsection shall be construed to
25 interfere with the obligation of the long-term care ombudsman program
26 to monitor the department's licensing, contract, and complaint
27 investigation files for long-term care facilities.

28 ((+6)) (7) The resident has the right to be free from
29 interference, coercion, discrimination, and reprisal from a facility in
30 exercising his or her rights, including the right to voice grievances
31 about treatment furnished or not furnished. A facility that provides
32 long-term care services shall not discriminate or retaliate in any
33 manner against a resident, employee, or other person on the basis or
34 for the reason that such resident or any other person made a complaint
35 to the department, the attorney general, law enforcement agencies, or
36 the long-term care ombudsman, provided information, or otherwise
37 cooperated with the investigation of such a complaint. Any attempt to
38 discharge a resident against the resident's wishes, or any type of
39 retaliatory treatment of a resident by whom or upon whose behalf a

1 complaint has been made to the department, the attorney general, law
2 enforcement agencies, or the long-term care ombudsman, within one year
3 of the filing of the complaint, raises a rebuttable presumption that
4 such action was in retaliation for the filing of the complaint.
5 "Retaliatory treatment" means, but is not limited to: Monitoring a
6 resident's phone, mail, or visits; involuntary seclusion or isolation;
7 transferring a resident to a different room unless requested or based
8 upon legitimate management reasons; withholding or threatening to
9 withhold food or treatment, unless authorized by a terminally ill
10 patient or representative pursuant to law; or persistently delaying
11 responses to a resident's request for service or assistance. A
12 facility that provides long-term care services also shall not willfully
13 interfere with the performance of official duties by a long-term care
14 ombudsman. The department ((may)) shall impose a civil penalty of not
15 more than three thousand dollars for a violation of this subsection and
16 require the facility to mitigate any damages incurred by the resident,
17 employee, or other person.

18 (8) Any employee of a facility providing long-term care services
19 who in good faith reports to the department, attorney general, law
20 enforcement agencies, or the long-term care ombudsman suspected
21 neglect, abuse, exploitation, or abandonment of a resident, shall be
22 considered a whistleblower. An employee who as a result of being a
23 whistleblower has been subjected to workplace reprisal or retaliatory
24 action has the remedies provided under chapter 49.60 RCW and the
25 protections found in RCW 4.24.500 through 4.24.520. "Reprisal or
26 retaliatory action" means, but is not limited to: Denial of adequate
27 staff support to perform duties; frequent staff changes; refusal to
28 assign meaningful work; unwarranted and unsubstantiated report of
29 misconduct; letters of reprimand or unsatisfactory performance
30 evaluations; demotion; denial of employment; or a supervisor
31 encouraging coworkers to behave in a hostile manner toward the
32 whistleblower. Nothing in this subsection prohibits a facility from
33 exercising its authority to terminate, suspend, or discipline any
34 employee who engages in workplace reprisal or retaliatory action
35 against a whistleblower, nor does it prevent a facility from
36 terminating, suspending, or disciplining a whistleblower for other
37 lawful purposes.

1 **Sec. 5.** RCW 70.129.030 and 1994 c 214 s 4 are each amended to read
2 as follows:

3 (1) The facility must inform the resident both orally and in
4 writing in a language that the resident understands of his or her
5 rights and all rules and regulations governing resident conduct and
6 responsibilities during the stay in the facility. The notification
7 must be made prior to or upon admission. Receipt of the information
8 must be acknowledged in writing.

9 (2) The facility shall admit only individuals whose needs it can
10 safely and appropriately serve in the facility with current staff or
11 through the provision of reasonable accommodations required by state or
12 federal law. Except in cases of emergency, the facility shall not
13 admit an individual before obtaining an assessment of the resident's
14 needs and preferences. The assessment must contain, unless unavailable
15 despite the best efforts of the facility and other interested parties,
16 the following information: Recent medical history; necessary and
17 prohibited medications; a medical professional's diagnosis; significant
18 known behaviors or symptoms that may cause concern or require special
19 care; mental illness unless protected by confidentiality laws; level of
20 personal care needs; activities and service preferences; and
21 preferences regarding issues important to the potential resident, such
22 as food and daily routine.

23 (3) The resident or his or her legal representative has the right:

24 (a) Upon an oral or written request, to access all records
25 pertaining to himself or herself including clinical records within
26 twenty-four hours; and

27 (b) After receipt of his or her records for inspection, to purchase
28 at a cost not to exceed the community standard photocopies of the
29 records or portions of them upon request and two working days' advance
30 notice to the facility.

31 ~~((+3+))~~ (4) The facility must inform each resident in writing in a
32 language the resident or his or her representative understands
33 before(, or at the time of) admission, and at least once every
34 twenty-four months thereafter of: (a) Services, items, and activities
35 customarily available in the facility or arranged for by the facility;
36 (b) charges for those services, items, and activities including charges
37 for services, items, and activities not covered by the facility's per
38 diem rate or applicable public benefit programs; and (c) the rules of
39 facility operations required under RCW 70.129.140(2). Each resident

1 and his or her representative must be informed in writing in advance of
2 changes in the availability or the charges for services, items, or
3 activities, or of changes in the facility's rules. Except in unusual
4 circumstances, thirty days' advance notice must be given prior to the
5 change.

6 ~~((4))~~ (5) The facility must furnish a written description of
7 residents rights that includes:

8 (a) A description of the manner of protecting personal funds, under
9 RCW 70.129.040;

10 (b) A posting of names, addresses, and telephone numbers of the
11 state survey and certification agency, the state licensure office, the
12 state ombudsmen program, and the protection and advocacy systems; and

13 (c) A statement that the resident may file a complaint with the
14 appropriate state licensing agency concerning resident abuse, neglect,
15 and misappropriation of resident property in the facility.

16 ~~((5))~~ (6) Notification of changes.

17 (a) A facility must immediately consult with the resident's
18 physician, and if known, make reasonable efforts to notify the
19 resident's legal representative or an interested family member when
20 there is:

21 (i) An accident involving the resident which requires or has the
22 potential for requiring physician intervention;

23 (ii) A significant change in the resident's physical, mental, or
24 psychosocial status (i.e., a deterioration in health, mental, or
25 psychosocial status in either life-threatening conditions or clinical
26 complications).

27 (b) The facility must promptly notify the resident or the
28 resident's representative shall make reasonable efforts to notify an
29 interested family member, if known, when there is:

30 (i) A change in room or roommate assignment; or

31 (ii) A decision to transfer or discharge the resident from the
32 facility.

33 (c) The facility must record and update the address and phone
34 number of the resident's representative or interested family member,
35 upon receipt of notice from them.

36 (7) This section applies to long-term care facilities covered under
37 this chapter and nursing facilities licensed under chapter 18.51 RCW.

1 **Sec. 6.** RCW 70.129.105 and 1994 c 214 s 17 are each amended to
2 read as follows:

3 No long-term care facility or nursing facility licensed under
4 chapter 18.51 RCW shall require or request residents to sign waivers of
5 potential liability for losses of personal property or injury, or to
6 sign waivers of residents' rights set forth in this chapter or in the
7 applicable licensing or certification laws.

8 **Sec. 7.** RCW 70.129.110 and 1994 c 214 s 12 are each amended to
9 read as follows:

10 (1) The facility must permit each resident to remain in the
11 facility, and not transfer or discharge the resident from the facility
12 unless:

13 (a) The transfer or discharge is necessary for the resident's
14 welfare and the resident's needs cannot be met in the facility;

15 (b) The safety of individuals in the facility is endangered;

16 (c) The health of individuals in the facility would otherwise be
17 endangered;

18 (d) The resident has failed to make the required payment for his or
19 her stay; or

20 (e) The facility ceases to operate.

21 (2) Before a long-term care facility or nursing facility licensed
22 under chapter 18.51 RCW transfers or discharges a resident, the
23 facility must:

24 (a) First attempt through reasonable accommodations, as defined by
25 the department, to avoid the transfer or discharge, unless agreed to by
26 the resident;

27 **(b)** Notify the resident and representative and make a reasonable
28 effort to notify, if known, an interested family member of the transfer
29 or discharge and the reasons for the move in writing and in a language
30 and manner they understand;

31 ~~((b))~~ **(c)** Record the reasons in the resident's record; and

32 ~~((e))~~ **(d)** Include in the notice the items described in subsection
33 (4) of this section.

34 (3)(a) Except when specified in this subsection, the notice of
35 transfer ~~((of {or}))~~ or discharge required under subsection (2) of this
36 section must be made by the facility at least thirty days before the
37 resident is transferred or discharged.

1 (b) Notice may be made as soon as practicable before transfer or
2 discharge when:

3 (i) The safety of individuals in the facility would be endangered;

4 (ii) The health of individuals in the facility would be endangered;

5 (iii) An immediate transfer or discharge is required by the
6 resident's urgent medical needs; or

7 (iv) A resident has not resided in the facility for thirty days.

8 (4) The written notice specified in subsection (2) of this section
9 must include the following:

10 (a) The reason for transfer or discharge;

11 (b) The effective date of transfer or discharge;

12 (c) The location to which the resident is transferred or
13 discharged;

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

16 (e) For residents with developmental disabilities, the mailing
17 address and telephone number of the agency responsible for the
18 protection and advocacy of developmentally disabled individuals
19 established under part C of the developmental disabilities assistance
20 and bill of rights act; and

21 (f) For residents who are mentally ill, the mailing address and
22 telephone number of the agency responsible for the protection and
23 advocacy of mentally ill individuals established under the protection
24 and advocacy for mentally ill individuals act.

25 (5) A facility must provide sufficient preparation and orientation
26 to residents to ensure safe and orderly transfer or discharge from the
27 facility.

28 (6) A resident discharged in violation of this section has the
29 right to be readmitted immediately upon the first availability of a
30 gender-appropriate bed in the facility.

31 **Sec. 8.** RCW 70.129.150 and 1994 c 214 s 16 are each amended to
32 read as follows:

33 (1) Prior to admission, all long-term care facilities or nursing
34 facilities licensed under chapter 18.51 RCW that require payment of an
35 admissions fee, deposit, advance notice before transferring from the
36 facility, or a minimum stay fee, by or on behalf of a person seeking
37 admission(~~(s-[admission])~~) to the long-term care facility or nursing
38 facility, shall provide the resident, or his or her representative,

1 full disclosure in writing (~~(of the long-term care facility or nursing~~
2 ~~facility's schedule of charges for items and services provided by the~~
3 ~~facility and)) in a language the resident or his or her representative
4 understands, a statement of the amount of any admissions fees,
5 deposits, prepaid charges, or minimum stay fees. In addition, the
6 long-term care facility or nursing facility shall also fully disclose
7 in writing prior to admission what portion of the deposits, admissions
8 fees, prepaid charges, or minimum stay fees will be refunded to the
9 resident or his or her representative if the resident leaves the long-
10 term care facility or nursing facility. Receipt of the disclosures
11 must be acknowledged in writing. If the facility does not provide
12 these disclosures, the deposits, admissions fees, prepaid charges, or
13 minimum stay fees may not be kept by the facility. If a resident(~~(~~
14 ~~during the first thirty days of residence,~~) dies (~~(or)~~), is
15 hospitalized, or is transferred to another facility for more
16 appropriate care and does not return to the original facility, the
17 facility shall refund any deposit or charges already paid less the
18 facility's per diem rate for the days the resident actually resided or
19 reserved or retained a bed in the facility notwithstanding any minimum
20 stay policy or discharge notice requirements, except that the facility
21 may retain an additional amount to cover its reasonable, actual
22 expenses incurred as a result of a resident's move, not to exceed five
23 days per diem charges. All long-term care facilities or nursing
24 facilities covered under this section are required to refund any and
25 all refunds due the resident or (~~(their)~~) his or her representative
26 within thirty days from the resident's date of discharge from the
27 facility. Nothing in this section applies to provisions in contracts
28 negotiated between a nursing facility or long-term care facility and a
29 certified health plan, health or disability insurer, health maintenance
30 organization, managed care organization, or similar entities.~~

31 (2) Where a long-term care facility or nursing facility requires
32 the execution of an admission contract by or on behalf of an individual
33 seeking admission to the facility, the terms of the contract shall be
34 consistent with the requirements of this (~~(section)~~) chapter.

35 **Sec. 9.** RCW 70.128.175 and 1995 1st sp.s. c 18 s 29 are each
36 amended to read as follows:

1 (1) Unless the context clearly requires otherwise, these
2 definitions shall apply throughout this section and RCW 35.63.140,
3 35A.63.149, 36.70.755, 35.22.680, and 36.32.560:

4 (a) "Adult family home" means a regular family abode ((of)) in
5 which a person or persons ((providing)) provide personal care, special
6 care, room, and board to more than one but not more than six adults who
7 are not related by blood or marriage to the person or persons providing
8 the services.

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

12 (c) "Department" means the department of social and health
13 services.

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

18 NEW SECTION. Sec. 10. (1) The powers and duties of the department
19 of health and the secretary of health under chapter 18.20 RCW, boarding
20 homes, and the related programs, services, and management and support
21 services, presently administered by the department of health are hereby
22 transferred to the department of social and health services. All
23 references to the secretary of health or the department of health in
24 the Revised Code of Washington shall be construed to mean the secretary
25 of social and health services or the department of social and health
26 services when referring to the functions transferred in this section.

27 (2)(a) All reports, documents, surveys, books, records, data,
28 files, papers, or written material in the possession of the department
29 of health pertaining to the powers, functions, and duties transferred
30 shall be delivered to the custody of the department of social and
31 health services. All cabinets, furniture, office equipment, motor
32 vehicles, and other tangible property employed by the department of
33 health in carrying out the powers, functions, and duties transferred
34 shall be made available to the department of social and health
35 services. All funds, credits, or other assets held in connection with
36 the powers, functions, and duties transferred shall be assigned to the
37 department of social and health services.

1 (b) Any appropriations or license fees made to the department of
2 health for carrying out the powers, functions, and duties transferred
3 shall, on the effective date of this section, be transferred and
4 credited to the department of social and health services.

5 (c) Whenever any question arises as to the transfer of any
6 personnel, funds, books, documents, records, papers, files, equipment,
7 or other tangible property used or held in the exercise of the powers
8 and the performance of the duties and functions transferred, the
9 director of financial management shall make a determination as to the
10 proper allocation and certify the same to the state agencies concerned.

11 (3) All rules and all pending business before the department of
12 health pertaining to the powers, functions, and duties transferred
13 shall be continued and acted upon by the department of social and
14 health services. All existing contracts and obligations shall remain
15 in full force and shall be performed by the department of social and
16 health services.

17 (4) The transfer of the powers, duties, functions, and personnel of
18 the department of health shall not affect the validity of any act
19 performed before the effective date of this section.

20 (5) If apportionments of budgeted funds are required because of the
21 transfers directed in this section, the director of financial
22 management shall certify the apportionments to the agencies affected,
23 the state auditor, and the state treasurer. Each of these shall make
24 the appropriate transfer and adjustments in funds and appropriation
25 accounts and equipment records in accordance with the certification.

26 (6) Nothing contained in this section may be construed to alter any
27 existing collective bargaining unit or the provisions of any existing
28 collective bargaining agreement until the agreement has expired or
29 until the bargaining unit has been modified by action of the personnel
30 board as provided by law.

31 **Sec. 11.** RCW 18.20.020 and 1991 c 3 s 34 are each amended to read
32 as follows:

33 As used in this chapter:

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

37 (2) "Boarding home" means any home or other institution, however
38 named, which is advertised, announced or maintained for the express or

1 implied purpose of providing board and domiciliary care to three or
2 more aged persons not related by blood or marriage to the operator. It
3 shall not include facilities certified as group training homes pursuant
4 to RCW 71A.22.040, nor any home, institution or section thereof which
5 is otherwise licensed and regulated under the provisions of state law
6 providing specifically for the licensing and regulation of such home,
7 institution or section thereof. Nor shall it include any independent
8 senior housing, independent living units in continuing care retirement
9 communities, or other similar living situations including those
10 subsidized by the department of housing and urban development.

11 (3) "Person" means any individual, firm, partnership, corporation,
12 company, association, or joint stock association, and the legal
13 successor thereof.

14 (4) "Secretary" means the secretary of (~~health~~) social and health
15 services.

16 (5) "Department" means the state department of (~~health~~) social
17 and health services.

18 (6) "Authorized department" means any city, county, city-county
19 health department or health district authorized by the secretary (~~of~~
20 ~~health~~) to carry out the provisions of this chapter.

21 **Sec. 12.** RCW 18.20.190 and 1995 1st sp.s. c 18 s 18 are each
22 amended to read as follows:

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

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

28 (b) Operated a boarding home without a license or under a revoked
29 license;

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

34 (d) Willfully prevented or interfered with any inspection or
35 investigation by the department.

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

38 (a) Refuse to issue a license;

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

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

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

7 (e) Suspend admissions to the boarding home by imposing stop
8 placement.

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

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

22 NEW SECTION. **Sec. 13.** In furtherance of the policy of the state
23 to cooperate with the federal government in all of the programs under
24 the jurisdiction of the department, such rules as may become necessary
25 to entitle the state to participate in federal funds may be adopted,
26 unless expressly prohibited by law. Any internal reorganization
27 carried out under the terms of this chapter shall meet federal
28 requirements that are a necessary condition to state receipt of federal
29 funds. Any section or provision of law dealing with the department
30 that may be susceptible to more than one construction shall be
31 interpreted in favor of the construction most likely to comply with
32 federal laws entitling this state to receive federal funds for the
33 various programs of the department. If any law dealing with the
34 department is ruled to be in conflict with federal requirements that
35 are a prescribed condition of the allocation of federal funds to the
36 state, or to any departments or agencies thereof, the conflicting part
37 is declared to be inoperative solely to the extent of the conflict.

1 NEW SECTION. **Sec. 14.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 15.** This act is necessary for the immediate
6 preservation of the public peace, health, or safety, or support of the
7 state government and its existing public institutions, and takes effect
8 immediately, except that sections 10 through 12 of this act take effect
9 January 1, 1998.

10 NEW SECTION. **Sec. 16.** Sections 1 and 13 of this act are each
11 added to chapter 74.39A RCW.

12 NEW SECTION. **Sec. 17.** Section 10 of this act is added to chapter
13 18.20 RCW.

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