
SUBSTITUTE SENATE BILL 6225

State of Washington

58th Legislature

2004 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Deccio, Keiser, Parlette, Winsley and Rasmussen)

READ FIRST TIME 02/09/04.

1 AN ACT Relating to boarding homes; amending RCW 18.20.020,
2 18.20.160, 18.20.290, 74.39A.009, 74.39A.020, and 70.129.110; adding
3 new sections to chapter 18.20 RCW; adding a new section to chapter
4 42.17 RCW; providing an effective date; and declaring an emergency.

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

6 **Sec. 1.** RCW 18.20.020 and 2003 c 231 s 2 are each amended to read
7 as follows:

8 As used in this chapter:

9 (1) "Boarding home" means any home or other institution, however
10 named, which is advertised, announced, or maintained for the express or
11 implied purpose of providing ~~((board and))~~ housing and assuming general
12 responsibility for the safety and well-being of the residents,
13 consistent with RCW 18.20.280, and may also provide domiciliary care,
14 consistent with this act, to seven or more residents after July 1,
15 2000. However, a boarding home that is licensed ~~((to provide board and~~
16 ~~domiciliary care to))~~ for three to six residents prior to or on July 1,
17 2000, may maintain its boarding home license as long as it is
18 continually licensed as a boarding home. "Boarding home" shall not
19 include facilities certified as group training homes pursuant to RCW

1 71A.22.040, nor any home, institution or section thereof which is
2 otherwise licensed and regulated under the provisions of state law
3 providing specifically for the licensing and regulation of such home,
4 institution or section thereof. Nor shall it include any independent
5 senior housing, independent living units in continuing care retirement
6 communities, or other similar living situations including those
7 subsidized by the department of housing and urban development.

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

11 (3) "Secretary" means the secretary of social and health services.

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

14 (5) "Resident's representative" means a person designated by a
15 competent resident in writing to act in the resident's behalf and to
16 receive information from the boarding home if a legal representative
17 has not been appointed. The resident's representative may not be an
18 employee of the boarding home.

19 (6) "Domiciliary care" means: Assistance with activities of daily
20 living provided by the boarding home either directly or indirectly; or
21 (~~assuming general responsibility for the safety and well-being of the~~
22 ~~resident~~) health support services, if provided directly or indirectly
23 by the boarding home; or intermittent nursing services, if provided
24 directly or indirectly by the boarding home. ("Domiciliary care" does
25 not include general observation or preadmission assessment for the
26 purposes of transitioning to a licensed care setting.

27 ~~(6)~~) (7) "General responsibility for the safety and well-being of
28 the resident" means the provision of the following: Meals; nutritious
29 snacks; laundry; emergency assistance; activities; housekeeping
30 services; monitoring of the resident; arranging health care
31 appointments with outside health care providers; coordinating health
32 care services with outside health care providers; assisting the
33 resident to obtain and maintain glasses, hearing aids, dentures, canes,
34 crutches, walkers, wheelchairs, and assistive communication devices;
35 observation of resident for changes in overall functioning; responding
36 appropriately when there are observable or reported changes in the
37 resident's physical, mental, or emotional functioning; and medication

1 assistance as permitted under RCW 69.41.085 and as defined in RCW
2 69.41.010.

3 (8) "General responsibility for the safety and well-being of the
4 resident" does not include: (a) Emergency assistance provided on an
5 intermittent or nonroutine basis to any nonresident individual; (~~(e)~~)
6 (b) systems or methods employed by independent senior housing,
7 independent living units in continuing care retirement communities, or
8 other similar living situations to monitor the well-being of
9 nonresident individuals; (c) blood pressure checks for nonresident
10 individuals; (d) nurse consultation services provided at the request of
11 a nonresident individual to determine whether referral to an outside
12 health care provider is recommended; (e) making health care
13 appointments at the request of nonresident individuals; (f) reminding
14 nonresident individuals of scheduled outside health care appointments;
15 (g) periodic observation or preadmission assessment for the purposes of
16 transitioning to a licensed care setting; or (h) services customarily
17 provided under landlord tenant agreements governed by the residential
18 landlord-tenant act, chapter 59.18 RCW. (~~Such services do not include~~
19 ~~care or supervision.~~) The preceding services that may be provided to
20 a nonresident individual may not include continual care or supervision
21 without a boarding home license.

22 (~~(7)~~) (9) "Legal representative" means a person or persons
23 identified in RCW 7.70.065 who may act on behalf of the resident
24 pursuant to the scope of their legal authority. The legal
25 representative shall not be an employee of the boarding home.

26 (10) "Nonresident individual" means a person who resides in
27 independent senior housing, independent living units in continuing care
28 retirement communities, or in other similar living environments or in
29 a boarding home and does not receive the services listed in subsection
30 (8) of this section under general responsibility for the safety and
31 well-being of the resident, or domiciliary care as defined in this
32 chapter directly or indirectly by the facility.

33 (11) "Resident" means an individual who(~~(: Lives in a boarding~~
34 ~~home, including those receiving respite care;)~~) is not related by blood
35 or marriage to the operator of the boarding home(~~(:)~~), and by reason of
36 age or disability, chooses to reside in the boarding home and receives
37 the services listed under general responsibilities for the safety and
38 well-being of the resident and may receive domiciliary care or respite

1 care provided ((either)) directly or indirectly by the boarding home
2 and may receive hospice care through an outside provider when arranged
3 by the resident or the resident's legal representative.

4 (12) "Resident applicant" means an individual who has completed and
5 signed an application for admission to a licensed boarding home.

6 NEW SECTION. Sec. 2. A new section is added to chapter 18.20 RCW
7 to read as follows:

8 (1) A boarding home licensed under this chapter may provide
9 domiciliary care services as defined in this chapter and shall disclose
10 the level and scope of the care and services that it chooses to
11 provide.

12 (2) The boarding home licensee shall disclose to the department,
13 residents, the residents' legal representative if available, and if
14 not, the residents' representative if available, and to interested
15 consumers upon request, using the form developed and provided by the
16 department or one that is substantially similar. The form that the
17 department develops shall be standardized, reasonable in length, and
18 easy to read. The boarding home's disclosure statement must also
19 indicate whether it permits the resident or the resident's legal
20 representative to independently arrange for outside services under
21 section 10 of this act.

22 (3) If the boarding home licensee decreases the level or scope of
23 services that it chooses to provide, the licensee shall provide a
24 minimum of thirty days' notice to the department, residents, the
25 residents' legal representative if available, and if not, the
26 residents' representative if available, before the effective date of
27 the decrease in the level or scope of care or services provided. If
28 the boarding home licensee increases the level or scope of services
29 that it chooses to provide, the licensee shall promptly provide notice
30 to the department, residents, the residents' legal representative if
31 available, and if not, the residents' representative if available, and
32 shall indicate the date on which the increase in the level or scope of
33 care or services is effective.

34 (4) Notwithstanding RCW 70.129.110(3)(a), the disclosure of any
35 services or care that a boarding home licensee offers to provide may
36 include exceptions to allow the licensee to, on a limited basis, meet
37 the needs of residents pending discharge. Providing care or services

1 to one or more residents on a limited basis, pending discharge, shall
2 not be construed to mean that the licensee can or will reasonably
3 accommodate other residents' similar needs throughout their boarding
4 home stay. The licensee must otherwise reasonably accommodate a
5 resident's needs when the resident's needs are within the scope and
6 level of care or services that the licensee has disclosed. Reasonable
7 accommodation of resident needs is not required when the accommodation
8 fundamentally alters the nature or character of the scope or level of
9 care or services provided by the licensee or when the accommodation
10 would create an undue financial hardship to the licensee.

11 (5) Even though the boarding home licensee may disclose that it can
12 provide certain care or services to residents, resident applicants, the
13 residents' legal representative if one exists, and if not, the
14 residents' representative, the licensee may deny admission to a
15 resident applicant or to discharge any resident when the licensee
16 determines that the needs of the resident applicant or the resident
17 cannot be met based upon the cumulative need for care or services of
18 all residents or the medical complexity of the resident or the resident
19 applicant.

20 (6) Notwithstanding RCW 70.129.110 (1)(a) and (4)(a), the licensee
21 shall provide notice of discharge to a resident as soon as reasonably
22 practicable and may immediately discharge a resident when the licensee
23 determines that it can no longer meet the residents' needs or when the
24 resident requires care or services that are beyond those that the
25 licensee disclosed at the time the resident was admitted, or as the
26 disclosure of care and services may be amended thereafter. However, if
27 the resident or resident's legal representative has independently
28 arranged for outside services under section 10 of this act discharge of
29 the resident will be as permitted by the licensee. The licensee and
30 the resident otherwise retain all other rights of transfer and
31 discharge under RCW 70.129.110. The department shall, at the request
32 of the licensee, secure an alternative placement for a medicaid
33 resident.

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 18.20 RCW
35 to read as follows:

36 (1) A boarding home licensee may choose to provide minimal,

1 substantial, or total assistance in all of the following activities of
2 daily living including the following:

3 (a) Bathing:

4 (i) Minimal assistance. Oversight of the bathing activity or
5 reminding is provided. Assistance or supervision is not provided but
6 occasional reminding is provided. Standby assistance to aid in getting
7 into or out of the tub or shower is provided.

8 (ii) Substantial assistance. Significant assistance with part of
9 the bathing activity, for example, to lather, wash and/or rinse the
10 resident's hair or body is provided. Physical assistance into a tub or
11 shower is provided.

12 (iii) Total assistance. Caregivers provide a complete bath.

13 (b) Dressing:

14 (i) Minimal assistance. Clothing is laid out. Reminding or
15 occasional supervision is provided.

16 (ii) Substantial assistance. Some physical assistance in dressing
17 or undressing is provided frequently or most of the time.

18 (iii) Total assistance. Caregivers do all dressing and undressing.

19 (c) Eating:

20 (i) Minimal assistance. Assistance cutting or preparing food or
21 beverages for consumption is provided.

22 (ii) Substantial assistance. Standby assistance for occasional
23 gagging, choking, or swallowing difficulties is provided. Reminding or
24 assistance with adaptive feeding equipment is provided.

25 (iii) Total assistance. Caregivers feed some or all food.

26 (d) Personal Hygiene:

27 (i) Minimal assistance. Occasional reminding or supervision is
28 provided. Personal grooming items are set out. Occasional assistance
29 with both personal hygiene and grooming is provided.

30 (ii) Substantial assistance. Regular assistance is provided.

31 (iii) Total assistance. Caregivers provide all personal hygiene
32 and grooming.

33 (e) Transferring:

34 (i) Minimal assistance. Occasional verbal cuing or standby
35 assistance for transfers is provided.

36 (ii) Substantial assistance. Occasional light touch to guide or
37 steady in transferring is provided.

1 (iii) Total assistance. Physical assistance with some or all
2 transfers is provided.

3 (f) Toileting:

4 (i) Minimal assistance. Reminding to toilet or to change a
5 protective garment is provided.

6 (ii) Substantial assistance. Occasional assistance with parts of
7 the toileting tasks is provided.

8 (iii) Total assistance. Physical assistance to use the toilet on
9 a scheduled toileting or incontinence program is provided. Management
10 of a closed drainage system for a catheter or sheath is provided.

11 (g) Ambulation and Mobility:

12 (i) Minimal assistance. Occasional verbal cuing is provided.

13 (ii) Substantial assistance. Occasional standby assistance or
14 light touch assistance to guide or steady during ambulation or mobility
15 is provided.

16 (iii) Total assistance. Physical assistance of a caregiver is
17 required for mobility.

18 (2) Boarding homes are not required to provide assistance with
19 activities of daily living. When a boarding home licensee selects the
20 level of assistance that will be provided to residents, minimal,
21 substantial, or total, the level of assistance selected shall apply to
22 all activities of daily living, for example, if the licensee chooses to
23 provide substantial assistance, then substantial assistance must be
24 available to assist residents with bathing, dressing, eating, personal
25 hygiene, transferring, toileting, and ambulation and mobility.
26 However, the activities of daily living assistance provided to a
27 resident shall be consistent with RCW 18.20.280.

28 (3) The licensee shall clarify, through the disclosure form, any
29 limitations, additional services, or conditions that may apply under
30 this section.

31 (4) In providing assistance with activities of daily living, the
32 boarding home shall observe the resident for changes in overall
33 functioning and respond appropriately when there are observable or
34 reported changes in the resident's physical, mental, or emotional
35 functioning.

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

1 (1) Boarding homes are not required to provide any health support
2 services. The boarding home licensee may choose to provide any of the
3 following health support services:

- 4 (a) Blood glucose testing;
- 5 (b) Low sodium diets;
- 6 (c) General diabetic diets;
- 7 (d) Puree diets;
- 8 (e) Mechanical soft foods;
- 9 (f) Calorie controlled diabetic diets;
- 10 (g) Directing or redirecting behaviors; and
- 11 (h) Supervising behaviors.

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

15 (3) In providing health support services, the boarding home shall
16 observe the resident for changes in overall functioning and respond
17 appropriately when there are observable or reported changes in the
18 resident's physical, mental, or emotional functioning.

19 NEW SECTION. **Sec. 5.** A new section is added to chapter 18.20 RCW
20 to read as follows:

21 (1) Boarding homes are not required to provide intermittent nursing
22 services. The boarding home licensee may choose to provide any of the
23 following intermittent nursing services through appropriately licensed
24 and credentialed staff, and the licensee shall clarify, through
25 disclosure, any limitations, additional services, or conditions:

- 26 (a) Assistance with treatments;
- 27 (b) Medication administration;
- 28 (c) Administration of health care treatments;
- 29 (d) Blood glucose monitoring;
- 30 (e) Ostomy care; and
- 31 (f) Tube feeding.

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

35 (3) In providing intermittent nursing services, the boarding home
36 shall observe the resident for changes in overall functioning and

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

3 (4) The boarding home may provide intermittent nursing services to
4 the extent permitted by RCW 18.20.160.

5 NEW SECTION. **Sec. 6.** A new section is added to chapter 18.20 RCW
6 to read as follows:

7 (1) A boarding home licensee may permit a resident's family member
8 to administer medications or treatments or to provide medication or
9 treatment assistance to the resident. The licensee shall disclose to
10 the department, residents, the residents' legal representative if
11 available, and if not, the resident's representative if available, and
12 to interested consumers upon request, information describing whether
13 the licensee permits such family administration or assistance and, if
14 so, the extent of limitations or conditions thereof.

15 (2) If a boarding home licensee permits a resident's family member
16 to administer medications or treatments or to provide medication or
17 treatment assistance, the licensee shall request that the family member
18 submit to the licensee a written medication or treatment plan. At a
19 minimum, the written medication or treatment plan shall identify:

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

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

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

28 (d) An emergency contact person and telephone number if the
29 boarding home licensee observes changes in the resident's overall
30 functioning or condition that may relate to the medication or treatment
31 plan.

32 (3) The boarding home licensee may require that the primary or
33 alternate medication or treatment plan include other information in
34 addition to that specified in subsection (2) of this section.

35 (4) The medication or treatment plan shall be signed and dated by
36 the resident, if able, the resident's family member, and the boarding
37 home licensee.

1 (5) The boarding home may through policy or procedure require the
2 resident's family member to immediately notify the boarding home
3 licensee of any change in the primary or alternate medication or
4 treatment plan.

5 (6) When a boarding home licensee permits residents' family members
6 to assist with or administer medications or treatments, the licensee's
7 duty of care, and any negligence that may be attributed thereto, shall
8 include: Observation of the resident for changes in overall
9 functioning consistent with RCW 18.20.280; notification to the person
10 or persons identified in RCW 70.129.030 when there are changes in the
11 resident's condition or when the boarding home is aware that both the
12 primary and alternate plan are not implemented; and appropriately
13 responding to obtain needed assistance when there are observable or
14 reported changes in the resident's physical or mental functioning.

15 NEW SECTION. **Sec. 7.** A new section is added to chapter 18.20 RCW
16 to read as follows:

17 (1) The boarding home licensee shall conduct a preadmission
18 assessment for each resident applicant. The preadmission assessment
19 shall include the following information:

- 20 (a) Medical history;
- 21 (b) Necessary and contraindicated medications;
- 22 (c) A licensed medical or health professional's diagnosis, unless
23 the individual objects for religious reasons;
- 24 (d) Significant known behaviors or symptoms that may cause concern
25 or require special care;
- 26 (e) Mental illness diagnosis, except where protected by
27 confidentiality laws;
- 28 (f) Level of personal care needs;
- 29 (g) Activities and service preferences; and
- 30 (h) Preferences regarding other issues important to the resident
31 applicant, such as food and daily routine.

32 (2) The boarding home licensee shall complete the preadmission
33 assessment before admission unless there is an emergency. If there is
34 an emergency admission, the preadmission assessment shall be completed
35 within five days of the date of admission. For purposes of this
36 section, "emergency" includes, but is not limited to: Evening,
37 weekend, or Friday afternoon admissions if the resident applicant would

1 otherwise need to remain in a licensed hospital, nursing facility,
2 adult family home, an unsafe home environment, or be without adequate
3 and safe housing.

4 (3) The boarding home licensee shall complete an initial resident
5 service plan upon move-in to identify the resident's immediate needs
6 and to provide direction to staff and caregivers relating to the
7 resident's immediate needs. The initial resident service plan shall be
8 based upon any information, under subsection (1) of this section, that
9 can be obtained upon move-in.

10 NEW SECTION. **Sec. 8.** A new section is added to chapter 18.20 RCW
11 to read as follows:

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

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

21 (b) Current necessary and contraindicated medications and
22 treatments for the individual, including:

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

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

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

34 (c) The individual's nursing needs when the individual requires the
35 services of a nurse on the boarding home premises;

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

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

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

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

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

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

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

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

37 (2) Complete a limited assessment of a resident's change of

1 condition when the resident's negotiated service agreement no longer
2 addresses the resident's current needs.

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

5 (1) The boarding home licensee shall complete a negotiated service
6 agreement using the preadmission assessment, initial resident service
7 plan, and full reassessment information obtained under sections 7 and
8 8 of this act. The licensee shall include the resident and, unless the
9 resident objects, the resident's legal representative if available, or
10 the resident's representative, in the development of the negotiated
11 service agreement. If the resident is a medicaid client, the
12 department's case manager shall also be involved.

13 (2) The negotiated service agreement shall be completed or updated:

- 14 (a) Within thirty days of the date of move-in;
- 15 (b) As necessary following the annual full assessment of the
16 resident; and
- 17 (c) Whenever the resident's negotiated service agreement no longer
18 adequately addresses the resident's current needs and preferences.

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

21 The boarding home licensee may permit the resident, or the
22 resident's legal representative, to independently arrange for or
23 contract with a person or a home health, hospice, or home care agency
24 licensed under chapter 70.127 RCW, to provide care and services to the
25 resident, consistent with RCW 18.20.260.

26 NEW SECTION. **Sec. 11.** A new section is added to chapter 18.20 RCW
27 to read as follows:

28 By December 12, 2005, the department shall report on the payment
29 system for licensed boarding homes to the chairs of the senate and
30 house of representatives health care committees. The department shall
31 include in the report findings regarding the average costs of providing
32 care and services for the nonmetropolitan statistical areas,
33 metropolitan statistical areas, and King county to determine whether
34 the rates of payment within the designated areas are, on average,
35 reasonably related to the identified average costs. The cost data is

1 exempt from disclosure as provided in section 17 of this act. The
2 purpose of this cost-to-rate comparison study is to assess any cost
3 impacts that may be attributed to the implementation of new boarding
4 home rules occurring between September 1, 2004, and June 30, 2005. If
5 the department adopts new boarding home rules after June 30, 2005, the
6 report to the chairs of the senate and house of representatives health
7 care committees will instead be due by December 12, 2006.

8 **Sec. 12.** RCW 18.20.160 and 1985 c 297 s 2 are each amended to read
9 as follows:

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

25 **Sec. 13.** RCW 18.20.290 and 2003 c 231 s 11 are each amended to
26 read as follows:

27 (1) When a boarding home contracts with the department to provide
28 adult residential care services, enhanced adult residential care
29 services, or assisted living services under chapter 74.39A RCW, the
30 boarding home must hold a medicaid eligible resident's room or unit
31 when short-term care is needed in a nursing home or hospital, the
32 resident is likely to return to the boarding home, and payment is made
33 under subsection (2) of this section.

34 (2) The medicaid resident's bed or unit shall be held for up to
35 twenty days. The per day bed or unit hold compensation amount shall be
36 seventy percent of the daily rate paid for the first seven days the bed

1 or unit is held for the resident who needs short-term nursing home care
2 or hospitalization. The rate for the eighth through the twentieth day
3 a bed is held shall be established in rule, but shall be no lower than
4 ten dollars per day the bed or unit is held.

5 (3) The boarding home may seek third-party payment to hold a bed or
6 unit for twenty-one days or longer. The third-party payment shall not
7 exceed (~~(eighty five percent of)~~) the (~~(average)~~) medicaid daily rate
8 paid to the facility for the resident. If third-party payment is not
9 available, the medicaid resident may return to the first available and
10 appropriate bed or unit, if the resident continues to meet the
11 admission criteria under this chapter.

12 (4) The department shall monitor the use and impact of the policy
13 established under this section and shall report its findings to the
14 appropriate committees of the senate and house of representatives by
15 December 31, 2005.

16 (5) This section expires June 30, 2006.

17 **Sec. 14.** RCW 74.39A.009 and 1997 c 392 s 103 are each amended to
18 read as follows:

19 Unless the context clearly requires otherwise, the definitions in
20 this section apply throughout this chapter.

21 (1) "Adult family home" means a home licensed under chapter 70.128
22 RCW.

23 (2) "Adult residential care" means services provided by a boarding
24 home that is licensed under chapter 18.20 RCW and that has a contract
25 with the department under RCW 74.39A.020 to provide personal care
26 services.

27 (3) "Assisted living services" means services provided by a
28 boarding home that has a contract with the department under RCW
29 74.39A.010 to provide personal care services, intermittent nursing
30 services, and medication administration services, and the resident is
31 housed in a private apartment-like unit.

32 (4) "Boarding home" means a facility licensed under chapter 18.20
33 RCW.

34 (5) "Cost-effective care" means care provided in a setting of an
35 individual's choice that is necessary to promote the most appropriate
36 level of physical, mental, and psychosocial well-being consistent with
37 client choice, in an environment that is appropriate to the care and

1 safety needs of the individual, and such care cannot be provided at a
2 lower cost in any other setting. But this in no way precludes an
3 individual from choosing a different residential setting to achieve his
4 or her desired quality of life.

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

7 (7) "Enhanced adult residential care" means services provided by a
8 boarding home that is licensed under chapter 18.20 RCW and that has a
9 contract with the department under RCW 74.39A.010 to provide personal
10 care services, intermittent nursing services, and medication
11 administration services.

12 (8) "Functionally disabled person" is synonymous with chronic
13 functionally disabled and means a person who because of a recognized
14 chronic physical or mental condition or disease, including chemical
15 dependency, is impaired to the extent of being dependent upon others
16 for direct care, support, supervision, or monitoring to perform
17 activities of daily living. "Activities of daily living", in this
18 context, means self-care abilities related to personal care such as
19 bathing, eating, using the toilet, dressing, and transfer.
20 Instrumental activities of daily living may also be used to assess a
21 person's functional abilities as they are related to the mental
22 capacity to perform activities in the home and the community such as
23 cooking, shopping, house cleaning, doing laundry, working, and managing
24 personal finances.

25 (9) "Home and community services" means adult family homes, in-home
26 services, and other services administered or provided by contract by
27 the department directly or through contract with area agencies on aging
28 or similar services provided by facilities and agencies licensed by the
29 department.

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

1 (11) "Nursing home" means a facility licensed under chapter 18.51
2 RCW.

3 (12) "Secretary" means the secretary of social and health services.

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

7 **Sec. 15.** RCW 74.39A.020 and 1995 1st sp.s. c 18 s 15 are each
8 amended to read as follows:

9 (1) To the extent of available funding, the department of social
10 and health services may contract for adult residential care (~~and~~
11 ~~enhanced adult residential care~~)).

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

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

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

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

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

21 (b) Include personal care (~~and limited nursing services~~) and
22 other services that promote independence and self-sufficiency and aging
23 in place;

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

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

30 (4) When a facility contracts with the department for adult
31 residential care (~~and enhanced adult residential care~~), only services
32 and facility standards that are provided to or in behalf of the adult
33 residential care (~~or the enhanced adult residential care~~) client
34 shall be subject to the adult residential care (~~or enhanced adult~~
35 ~~residential care~~) rules.

36 (5) To the extent of available funding, the department may also
37 contract under this section with a tribally licensed boarding home for

1 the provision of services of the same nature as the services provided
2 by adult residential care facilities. The provisions of subsections
3 (2)(a) and (b) and (3)(a) through (d) of this section apply to such a
4 contract.

5 **Sec. 16.** RCW 70.129.110 and 1997 c 392 s 205 are each amended to
6 read as follows:

7 (1) The facility must permit each resident to remain in the
8 facility, and not transfer or discharge the resident from the facility
9 unless:

10 (a) Except as provided in section 2 of this act, the transfer or
11 discharge is necessary for the resident's welfare and the resident's
12 needs cannot be met in the facility;

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

14 (c) The health of individuals in the facility would otherwise be
15 endangered;

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

18 (e) The facility ceases to operate.

19 (2) All long-term care facilities shall fully disclose to potential
20 residents or their legal representative the service capabilities of the
21 facility prior to admission to the facility. If the care needs of the
22 applicant who is medicaid eligible are in excess of the facility's
23 service capabilities, the department shall identify other care settings
24 or residential care options consistent with federal law.

25 (3) Before a long-term care facility transfers or discharges a
26 resident, the facility must:

27 (a) First attempt through reasonable accommodations to avoid the
28 transfer or discharge, unless agreed to by the resident and except as
29 provided in section 2 of this act;

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

34 (c) Record the reasons in the resident's record; and

35 (d) Include in the notice the items described in subsection (5) of
36 this section.

1 (4)(a) Except when specified in this subsection and as provided in
2 section 2 of this act, the notice of transfer or discharge required
3 under subsection (3) of this section must be made by the facility at
4 least thirty days before the resident is transferred or discharged.

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

7 (i) The safety of individuals in the facility would be endangered;
8 (ii) The health of individuals in the facility would be endangered;
9 (iii) An immediate transfer or discharge is required by the
10 resident's urgent medical needs; or

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

12 (5) The written notice specified in subsection (3) of this section
13 must include the following:

14 (a) The reason for transfer or discharge;

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

16 (c) The location to which the resident is transferred or
17 discharged;

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

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

25 (f) For residents who are mentally ill, the mailing address and
26 telephone number of the agency responsible for the protection and
27 advocacy of mentally ill individuals established under the protection
28 and advocacy for mentally ill individuals act.

29 (6) A facility must provide sufficient preparation and orientation
30 to residents to ensure safe and orderly transfer or discharge from the
31 facility.

32 (7) A resident discharged in violation of this section has the
33 right to be readmitted immediately upon the first availability of a
34 gender-appropriate bed in the facility.

35 NEW SECTION. **Sec. 17.** A new section is added to chapter 42.17 RCW
36 to read as follows:

37 Data collected by the department of social and health services for

1 the reports required by section 11 of this act and section 8, chapter
2 231, Laws of 2003, except as compiled in the aggregate and reported to
3 the senate and house of representatives, is exempt from disclosure
4 under this chapter.

5 NEW SECTION. **Sec. 18.** 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 2 through 5, 8, 9, and 16 of this act
9 take effect September 1, 2004.

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