
HOUSE BILL 1078

State of Washington 59th Legislature 2005 Regular Session

By Representative Fromhold; by request of Governor Locke

Read first time 01/13/2005. Referred to Committee on Health Care.

1 AN ACT Relating to transferring the duties of the home care quality
2 authority to the department of social and health services; amending RCW
3 74.39A.220, 74.39A.230, 74.39A.240, 74.39A.250, 74.39A.270, 74.39A.290,
4 41.56.030, 74.39A.095, and 74.39A.300; and repealing RCW 74.39A.260,
5 74.39A.280, and 70.127.041.

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

7 **Sec. 1.** RCW 74.39A.220 and 2002 c 3 s 1 are each amended to read
8 as follows:

9 The people of the state of Washington find as follows:

10 (1) Thousands of Washington seniors and persons with disabilities
11 live independently in their own homes, which they prefer and is less
12 costly than institutional care such as nursing homes.

13 (2) Many Washington seniors and persons with disabilities currently
14 receive long-term in-home care services from individual providers hired
15 directly by them under the medicaid personal care, community options
16 programs entry system, or chore services program.

17 (3) Quality long-term in-home care services allow Washington
18 seniors, persons with disabilities, and their families the choice of
19 allowing seniors and persons with disabilities to remain in their

1 homes, rather than forcing them into institutional care such as nursing
2 homes. Long-term in-home care services are also less costly, saving
3 Washington taxpayers significant amounts through lower reimbursement
4 rates.

5 (4) The quality of long-term in-home care services in Washington
6 would benefit from improved regulation, higher standards, better
7 accountability, and improved access to such services. The quality of
8 long-term in-home care services would further be improved by a well-
9 trained, stable individual provider work force earning reasonable wages
10 and benefits.

11 (5) Washington seniors and persons with disabilities would benefit
12 from the establishment of ~~((an authority that has the power and duty to~~
13 ~~regulate and))~~ a home care quality council to advise the governor and
14 the department on ways to improve the quality of long-term in-home care
15 services.

16 (6) The ~~((authority))~~ home care quality council should promote and
17 monitor the department's efforts to ensure that the quality of long-
18 term in-home care services provided by individual providers is improved
19 through better regulation, higher standards, increased accountability,
20 and the enhanced ability to obtain services. The ~~((authority))~~ home
21 care quality council should also encourage the department's efforts to
22 promote stability in the individual provider work force through
23 collective bargaining and by providing training opportunities.

24 **Sec. 2.** RCW 74.39A.230 and 2002 c 3 s 2 are each amended to read
25 as follows:

26 (1) The home care quality ~~((authority))~~ council is established to
27 advise the governor and the department in its efforts to regulate and
28 improve the quality of long-term in-home care services by recruiting,
29 training, and stabilizing the work force of individual providers.

30 (2) The ~~((authority))~~ home care quality council consists of a board
31 of nine members appointed by the governor. At least five ~~((board))~~
32 home care quality councilmembers shall be current and/or former
33 consumers of long-term in-home care services provided for functionally
34 disabled persons, at least one of whom shall be a person with a
35 developmental disability~~((†))~~. Also, of the home care quality
36 councilmembers, at least one ~~((board))~~ member shall be a representative
37 of the developmental disabilities planning council; at least one

1 ((~~board~~)) member shall be a representative of the governor's committee
2 on disability issues and employment; at least one ((~~board~~)) member
3 shall be a representative of the state council on aging; and at least
4 one ((~~board~~)) member shall be a representative of the Washington state
5 association of area agencies on aging. The initial appointments to the
6 home care quality council will be as follows: Three members will be
7 appointed for a one-year term, three members will be appointed for a
8 two-year term, and three members will be appointed for a three-year
9 term. Thereafter, each ((~~board~~)) home care quality councilmember
10 ((~~serves~~)) will be appointed to serve a term of three years. If a
11 vacancy occurs, the governor will make an appointment to become
12 immediately effective for the unexpired term. Each ((~~board~~)) home care
13 quality councilmember is eligible for reappointment and may serve no
14 more than two consecutive terms. In making appointments, the governor
15 will take into consideration any nominations or recommendations made by
16 the groups or agencies represented.

17 **Sec. 3.** RCW 74.39A.240 and 2002 c 3 s 3 are each amended to read
18 as follows:

19 The definitions in this section apply throughout RCW 74.39A.030 and
20 ((~~74.39A.095~~ and)) 74.39A.220 through 74.39A.300, 41.56.026,
21 ((~~70.127.041,~~)) and 74.09.740 unless the context clearly requires
22 otherwise.

23 (1) ((~~"Authority" means the home care quality authority.~~
24 ~~(2) "Board" means the board created under RCW 74.39A.230.~~
25 ~~(3)~~) "Consumer" means a person to whom an individual provider
26 provides any such services.

27 ((~~(4)~~)) (2) "Home care quality council" means the council created
28 under RCW 74.39A.230.

29 (3) "Individual provider" means a person, including a personal
30 aide, who has contracted with the department to provide personal care
31 or respite care services to functionally disabled persons under the
32 medicaid personal care, community options program entry system, chore
33 services program, or respite care program, or to provide respite care
34 or residential services and support to persons with developmental
35 disabilities under chapter 71A.12 RCW, or to provide respite care as
36 defined in RCW 74.13.270.

1 **Sec. 4.** RCW 74.39A.250 and 2002 c 3 s 4 are each amended to read
2 as follows:

3 (1) The ((~~authority~~)) department, with advice and input from the
4 home care quality council, must carry out the following duties:

5 (a) Establish qualifications and reasonable standards for
6 accountability for and investigate the background of individual
7 providers and prospective individual providers, except in cases where,
8 after the department has sought approval of any appropriate amendments
9 or waivers under RCW 74.09.740, federal law or regulation requires that
10 such qualifications and standards for accountability be established by
11 another entity in order to preserve eligibility for federal funding.
12 Qualifications established must include compliance with the minimum
13 requirements for training and satisfactory criminal background checks
14 as provided in RCW 74.39A.050 and confirmation that the individual
15 provider or prospective individual provider is not currently listed on
16 any long-term care abuse and neglect registry used by the department at
17 the time of the investigation;

18 (b) Undertake, to the extent that funds are provided by the
19 legislature, recruiting activities to identify and recruit individual
20 providers and prospective individual providers;

21 (c) Provide training opportunities, either directly or through
22 contract, for individual providers, prospective individual providers,
23 consumers, and prospective consumers;

24 (d) Provide, to the extent that funds are provided by the
25 legislature, assistance to consumers and prospective consumers in
26 finding individual providers and prospective individual providers
27 through the establishment of a referral registry of individual
28 providers and prospective individual providers. Before placing an
29 individual provider or prospective individual provider on the referral
30 registry, the ((~~authority~~)) department shall determine that:

31 (i) The individual provider or prospective individual provider has
32 met the minimum requirements for training set forth in RCW 74.39A.050;

33 (ii) The individual provider or prospective individual provider has
34 satisfactorily undergone a criminal background check conducted within
35 the prior twelve months; and

36 (iii) The individual provider or prospective individual provider is
37 not listed on any long-term care abuse and neglect registry used by the
38 department;

1 (e) Remove from the referral registry any individual provider or
2 prospective individual provider the ((authority)) department determines
3 not to meet the qualifications set forth in (d) of this subsection or
4 to have committed misfeasance or malfeasance in the performance of his
5 or her duties as an individual provider. The individual provider or
6 prospective individual provider, or the consumer to which the
7 individual provider is providing services, may request a fair hearing
8 to contest the removal from the referral registry, as provided in
9 chapter 34.05 RCW;

10 (f) Provide routine, emergency, and respite referrals of individual
11 providers and prospective individual providers to consumers and
12 prospective consumers who are authorized to receive long-term in-home
13 care services through an individual provider; and

14 (g) Give preference in the recruiting, training, referral, and
15 employment of individual providers and prospective individual providers
16 to recipients of public assistance or other low-income persons who
17 would qualify for public assistance in the absence of such
18 employment(~~(; and~~

19 ~~(h) Cooperate with the department, area agencies on aging, and~~
20 ~~other federal, state, and local agencies to provide the services~~
21 ~~described and set forth in this section. If, in the course of carrying~~
22 ~~out its duties, the authority identifies concerns regarding the~~
23 ~~services being provided by an individual provider, the authority must~~
24 ~~notify the relevant area agency or department case manager regarding~~
25 ~~such concerns)).~~

26 (2) In determining how best to carry out its duties, the
27 ((authority)) department must identify existing individual provider
28 recruitment, training, and referral resources made available to
29 consumers by other state and local public, private, and nonprofit
30 agencies. The ((authority)) department may coordinate with the
31 agencies to provide a local presence for ((the authority)) home care
32 quality services and to provide consumers greater access to individual
33 provider recruitment, training, and referral resources in a cost-
34 effective manner. Using requests for proposals or similar processes,
35 the ((authority)) department may contract with the agencies to provide
36 recruitment, training, and referral services if the ((authority))
37 department determines the agencies can provide the services according

1 to reasonable standards of performance determined by the ((authority))
2 department. The ((authority)) department must provide an opportunity
3 for consumer participation in the determination of the standards.

4 **Sec. 5.** RCW 74.39A.270 and 2004 c 3 s 1 are each amended to read
5 as follows:

6 (1) Solely for the purposes of collective bargaining and as
7 expressly limited under subsections (2) and (3) of this section, the
8 governor is the public employer, as defined in chapter 41.56 RCW, of
9 individual providers, who, solely for the purposes of collective
10 bargaining, are public employees as defined in chapter 41.56 RCW. To
11 accommodate the role of the state as payor for the community-based
12 services provided under this chapter and to ensure coordination with
13 state employee collective bargaining under chapter 41.80 RCW and the
14 coordination necessary to implement RCW 74.39A.300, the public employer
15 shall be represented for bargaining purposes by the governor or the
16 governor's designee appointed under chapter 41.80 RCW. The governor or
17 governor's designee shall periodically consult with the ((authority))
18 home care quality council during the collective bargaining process to
19 allow the ((authority)) home care quality council to communicate issues
20 relating to the long-term in-home care services received by consumers.

21 (2) Chapter 41.56 RCW governs the collective bargaining
22 relationship between the governor and individual providers, except as
23 otherwise expressly provided in this chapter and except as follows:

24 (a) The only unit appropriate for the purpose of collective
25 bargaining under RCW 41.56.060 is a statewide unit of all individual
26 providers;

27 (b) The showing of interest required to request an election under
28 RCW 41.56.060 is ten percent of the unit, and any intervener seeking to
29 appear on the ballot must make the same showing of interest;

30 (c) The mediation and interest arbitration provisions of RCW
31 41.56.430 through 41.56.470 and 41.56.480 apply, except that:

32 (i) With respect to commencement of negotiations between the
33 governor and the bargaining representative of individual providers,
34 negotiations shall be commenced by May 1st of any year prior to the
35 year in which an existing collective bargaining agreement expires;

36 (ii) With respect to factors to be taken into consideration by an

1 interest arbitration panel, the panel shall consider the financial
2 ability of the state to pay for the compensation and fringe benefit
3 provisions of a collective bargaining agreement; and

4 (iii) The decision of the arbitration panel is not binding on the
5 legislature and, if the legislature does not approve the request for
6 funds necessary to implement the compensation and fringe benefit
7 provisions of the arbitrated collective bargaining agreement, is not
8 binding on the ~~((authority or the))~~ state;

9 (d) Individual providers do not have the right to strike; and

10 (e) Individual providers who are related to, or family members of,
11 consumers or prospective consumers are not, for that reason, exempt
12 from this chapter or chapter 41.56 RCW.

13 (3) Individual providers who are public employees solely for the
14 purposes of collective bargaining under subsection (1) of this section
15 are not, for that reason, employees of the state, its political
16 subdivisions, or an area agency on aging for any purpose. Chapter
17 41.56 RCW applies only to the governance of the collective bargaining
18 relationship between the employer and individual providers as provided
19 in subsections (1) and (2) of this section.

20 (4) Consumers and prospective consumers retain the right to select,
21 hire, supervise the work of, and terminate any individual provider
22 providing services to them. Consumers may elect to receive long-term
23 in-home care services from individual providers who are not referred to
24 them by the ~~((authority))~~ department.

25 ~~((In implementing and administering this chapter, neither the
26 authority nor any of its contractors may reduce or increase the hours
27 of service for any consumer below or above the amount determined to be
28 necessary under any assessment prepared by the department or an area
29 agency on aging.~~

30 ~~(6))~~ Except as expressly limited in this section and RCW
31 74.39A.300, the wages, hours, and working conditions of individual
32 providers are determined solely through collective bargaining as
33 provided in this chapter. No agency or department of the state~~((
34 other than the authority,~~)) may establish policies or rules governing
35 the wages or hours of individual providers except as necessary to
36 implement a collective bargaining agreement. However, this subsection
37 does not modify:

1 (a) The department's authority to establish a plan of care for each
2 consumer and to determine the hours of care that each consumer is
3 eligible to receive;

4 (b) The department's authority to terminate its contracts with
5 individual providers who are not adequately meeting the needs of a
6 particular consumer, or to deny a contract under RCW 74.39A.095(8);

7 (c) The consumer's right to assign hours to one or more individual
8 providers selected by the consumer within the maximum hours determined
9 by his or her plan of care;

10 (d) The consumer's right to select, hire, terminate, supervise the
11 work of, and determine the conditions of employment for each individual
12 provider providing services to the consumer under this chapter;

13 (e) The department's obligation to comply with the federal medicaid
14 statute and regulations and the terms of any community-based waiver
15 granted by the federal department of health and human services and to
16 ensure federal financial participation in the provision of the
17 services; and

18 (f) The legislature's right to make programmatic modifications to
19 the delivery of state services under this title, including standards of
20 eligibility of consumers and individual providers participating in the
21 programs under this title, and the nature of services provided. The
22 governor shall not enter into, extend, or renew any agreement under
23 this chapter that does not expressly reserve the legislative rights
24 described in this subsection (~~((6))~~) (5)(f).

25 (~~((7)(a))~~) (6) The state, the department, (~~(the authority,~~) the
26 area agencies on aging, or their contractors under this chapter may not
27 be held vicariously or jointly liable for the action or inaction of any
28 individual provider or prospective individual provider, whether or not
29 that individual provider or prospective individual provider was
30 included on the (~~(authority's)~~) department's referral registry or
31 referred to a consumer or prospective consumer. The existence of a
32 collective bargaining agreement, the placement of an individual
33 provider on the referral registry, or the development or approval of a
34 plan of care for a consumer who chooses to use the services of an
35 individual provider and the provision of case management services to
36 that consumer, by the department or an area agency on aging, does not
37 constitute a special relationship with the consumer.

1 ~~((b) The members of the board are immune from any liability~~
2 ~~resulting from implementation of this chapter.~~

3 ~~(8))~~ (7) Nothing in this section affects the state's
4 responsibility with respect to unemployment insurance for individual
5 providers. However, individual providers are not to be considered, as
6 a result of the state assuming this responsibility, employees of the
7 state.

8 **Sec. 6.** RCW 74.39A.290 and 2002 c 3 s 8 are each amended to read
9 as follows:

10 (1) The joint legislative audit and review committee will conduct
11 a performance review of the ~~((authority))~~ department's progress in
12 implementing the goals of chapter 3, Laws of 2002 every two years and
13 submit the review to the legislature and the governor. The first
14 review will be submitted before December 1, 2006.

15 (2) The performance review will include an evaluation of the
16 health, welfare, and satisfaction with services provided of the
17 consumers receiving long-term in-home care services from individual
18 providers under chapter 3, Laws of 2002, including the degree to which
19 all required services have been delivered, the degree to which
20 consumers receiving services from individual providers have ultimately
21 required additional or more intensive services, such as home health
22 care, or have been placed in other residential settings or nursing
23 homes, the promptness of response to consumer complaints, and any other
24 issue the committee deems relevant.

25 (3) The performance review will provide an explanation of the full
26 cost of individual provider services, including the administrative
27 costs of the ~~((authority))~~ department, unemployment compensation,
28 social security and medicare payroll taxes paid by the department, and
29 area agency on aging home care oversight costs.

30 (4) The performance review will make recommendations to the
31 legislature and the governor for any amendments to chapter 3, Laws of
32 2002 that will further ensure the well-being of consumers and
33 prospective consumers under chapter 3, Laws of 2002, and the most
34 efficient means of delivering required services. ~~((In addition, the~~
35 ~~first performance review will include findings and recommendations~~
36 ~~regarding the appropriateness of the authority's assumption of~~

1 ~~responsibility for verification of hours worked by individual~~
2 ~~providers, payment of individual providers, and other duties.))~~

3 **Sec. 7.** RCW 41.56.030 and 2004 c 3 s 6 are each amended to read as
4 follows:

5 As used in this chapter:

6 (1) "Public employer" means any officer, board, commission,
7 council, or other person or body acting on behalf of any public body
8 governed by this chapter, or any subdivision of such public body. For
9 the purposes of this section, the public employer of district court or
10 superior court employees for wage-related matters is the respective
11 county legislative authority, or person or body acting on behalf of the
12 legislative authority, and the public employer for nonwage-related
13 matters is the judge or judge's designee of the respective district
14 court or superior court.

15 (2) "Public employee" means any employee of a public employer
16 except any person (a) elected by popular vote, or (b) appointed to
17 office pursuant to statute, ordinance or resolution for a specified
18 term of office as a member of a multimember board, commission, or
19 committee, whether appointed by the executive head or body of the
20 public employer, or (c) whose duties as deputy, administrative
21 assistant or secretary necessarily imply a confidential relationship to
22 (i) the executive head or body of the applicable bargaining unit, or
23 (ii) any person elected by popular vote, or (iii) any person appointed
24 to office pursuant to statute, ordinance or resolution for a specified
25 term of office as a member of a multimember board, commission, or
26 committee, whether appointed by the executive head or body of the
27 public employer, or (d) who is a court commissioner or a court
28 magistrate of superior court, district court, or a department of a
29 district court organized under chapter 3.46 RCW, or (e) who is a
30 personal assistant to a district court judge, superior court judge, or
31 court commissioner, or (f) excluded from a bargaining unit under RCW
32 41.56.201(2)(a). For the purpose of (e) of this subsection, no more
33 than one assistant for each judge or commissioner may be excluded from
34 a bargaining unit.

35 (3) "Bargaining representative" means any lawful organization which
36 has as one of its primary purposes the representation of employees in
37 their employment relations with employers.

1 (4) "Collective bargaining" means the performance of the mutual
2 obligations of the public employer and the exclusive bargaining
3 representative to meet at reasonable times, to confer and negotiate in
4 good faith, and to execute a written agreement with respect to
5 grievance procedures and collective negotiations on personnel matters,
6 including wages, hours and working conditions, which may be peculiar to
7 an appropriate bargaining unit of such public employer, except that by
8 such obligation neither party shall be compelled to agree to a proposal
9 or be required to make a concession unless otherwise provided in this
10 chapter.

11 (5) "Commission" means the public employment relations commission.

12 (6) "Executive director" means the executive director of the
13 commission.

14 (7) "Uniformed personnel" means: (a) Law enforcement officers as
15 defined in RCW 41.26.030 employed by the governing body of any city or
16 town with a population of two thousand five hundred or more and law
17 enforcement officers employed by the governing body of any county with
18 a population of ten thousand or more; (b) correctional employees who
19 are uniformed and nonuniformed, commissioned and noncommissioned
20 security personnel employed in a jail as defined in RCW 70.48.020(5),
21 by a county with a population of seventy thousand or more, and who are
22 trained for and charged with the responsibility of controlling and
23 maintaining custody of inmates in the jail and safeguarding inmates
24 from other inmates; (c) general authority Washington peace officers as
25 defined in RCW 10.93.020 employed by a port district in a county with
26 a population of one million or more; (d) security forces established
27 under RCW 43.52.520; (e) fire fighters as that term is defined in RCW
28 41.26.030; (f) employees of a port district in a county with a
29 population of one million or more whose duties include crash fire
30 rescue or other fire fighting duties; (g) employees of fire departments
31 of public employers who dispatch exclusively either fire or emergency
32 medical services, or both; or (h) employees in the several classes of
33 advanced life support technicians, as defined in RCW 18.71.200, who are
34 employed by a public employer.

35 (8) "Institution of higher education" means the University of
36 Washington, Washington State University, Central Washington University,
37 Eastern Washington University, Western Washington University, The
38 Evergreen State College, and the various state community colleges.

1 (9) (~~"Home care quality authority" means the authority under~~
2 ~~chapter 74.39A RCW.~~

3 ~~(10))~~ "Individual provider" means an individual provider as
4 defined in RCW 74.39A.240(~~(+4))~~ (3) who, solely for the purposes of
5 collective bargaining, is a public employee as provided in RCW
6 74.39A.270.

7 **Sec. 8.** RCW 74.39A.095 and 2004 c 141 s 1 are each amended to read
8 as follows:

9 (1) In carrying out case management responsibilities established
10 under RCW 74.39A.090 for consumers who are receiving services under the
11 medicaid personal care, community options programs entry system or
12 chore services program through an individual provider, each area agency
13 on aging shall provide oversight of the care being provided to
14 consumers receiving services under this section to the extent of
15 available funding. Case management responsibilities incorporate this
16 oversight, and include, but are not limited to:

17 (a) Verification that (~~(any))~~ the individual provider (~~(who has not~~
18 ~~been referred to a consumer by the authority established under chapter~~
19 ~~3, Laws of 2002))~~ has met any training requirements established by the
20 department;

21 (b) Verification of a sample of worker time sheets;

22 (c) Monitoring the consumer's plan of care to verify that it
23 adequately meets the needs of the consumer, through activities such as
24 home visits, telephone contacts, and responses to information received
25 by the area agency on aging indicating that a consumer may be
26 experiencing problems relating to his or her home care;

27 (d) Reassessment and reauthorization of services;

28 (e) Monitoring of individual provider performance(~~(. If, in the~~
29 ~~course of its case management activities, the area agency on aging~~
30 ~~identifies concerns regarding the care being provided by an individual~~
31 ~~provider who was referred by the authority, the area agency on aging~~
32 ~~must notify the authority regarding its concerns))~~); and

33 (f) Conducting criminal background checks or verifying that
34 criminal background checks have been conducted (~~(for any individual~~
35 ~~provider who has not been referred to a consumer by the authority))~~).

36 (2) The area agency on aging case manager shall work with each
37 consumer to develop a plan of care under this section that identifies

1 and ensures coordination of health and long-term care services that
2 meet the consumer's needs. In developing the plan, they shall utilize,
3 and modify as needed, any comprehensive community service plan
4 developed by the department as provided in RCW 74.39A.040. The plan of
5 care shall include, at a minimum:

6 (a) The name and telephone number of the consumer's area agency on
7 aging case manager, and a statement as to how the case manager can be
8 contacted about any concerns related to the consumer's well-being or
9 the adequacy of care provided;

10 (b) The name and telephone numbers of the consumer's primary health
11 care provider, and other health or long-term care providers with whom
12 the consumer has frequent contacts;

13 (c) A clear description of the roles and responsibilities of the
14 area agency on aging case manager and the consumer receiving services
15 under this section;

16 (d) The duties and tasks to be performed by the area agency on
17 aging case manager and the consumer receiving services under this
18 section;

19 (e) The type of in-home services authorized, and the number of
20 hours of services to be provided;

21 (f) The terms of compensation of the individual provider;

22 (g) A statement by the individual provider that he or she has the
23 ability and willingness to carry out his or her responsibilities
24 relative to the plan of care; and

25 (h)(i) Except as provided in (h)(ii) of this subsection, a clear
26 statement indicating that a consumer receiving services under this
27 section has the right to waive any of the case management services
28 offered by the area agency on aging under this section, and a clear
29 indication of whether the consumer has, in fact, waived any of these
30 services.

31 (ii) The consumer's right to waive case management services does
32 not include the right to waive reassessment or reauthorization of
33 services, or verification that services are being provided in
34 accordance with the plan of care.

35 (3) Each area agency on aging shall retain a record of each waiver
36 of services included in a plan of care under this section.

37 (4) Each consumer has the right to direct and participate in the

1 development of their plan of care to the maximum practicable extent of
2 their abilities and desires, and to be provided with the time and
3 support necessary to facilitate that participation.

4 (5) A copy of the plan of care must be distributed to the
5 consumer's primary care provider, individual provider, and other
6 relevant providers with whom the consumer has frequent contact, as
7 authorized by the consumer.

8 (6) The consumer's plan of care shall be an attachment to the
9 contract between the department, or their designee, and the individual
10 provider.

11 (7) If the department or area agency on aging case manager finds
12 that an individual provider's inadequate performance or inability to
13 deliver quality care is jeopardizing the health, safety, or well-being
14 of a consumer receiving service under this section, the department or
15 the area agency on aging may take action to terminate the contract
16 between the department and the individual provider. If the department
17 or the area agency on aging has a reasonable, good faith belief that
18 the health, safety, or well-being of a consumer is in imminent
19 jeopardy, the department or area agency on aging may summarily suspend
20 the contract pending a fair hearing. The consumer may request a fair
21 hearing to contest the planned action of the case manager, as provided
22 in chapter 34.05 RCW. ~~((When the department or area agency on aging
23 terminates or summarily suspends a contract under this subsection, it
24 must provide oral and written notice of the action taken to the
25 authority.))~~ The department may by rule adopt guidelines for
26 implementing this subsection.

27 (8) The department or area agency on aging may reject a request by
28 a consumer receiving services under this section to have a family
29 member or other person serve as his or her individual provider if the
30 case manager has a reasonable, good faith belief that the family member
31 or other person will be unable to appropriately meet the care needs of
32 the consumer. The consumer may request a fair hearing to contest the
33 decision of the case manager, as provided in chapter 34.05 RCW. The
34 department may by rule adopt guidelines for implementing this
35 subsection.

36 **Sec. 9.** RCW 74.39A.300 and 2004 c 3 s 2 are each amended to read
37 as follows:

1 (1) Upon meeting the requirements of subsection (2) of this
2 section, the governor must submit, as a part of the proposed biennial
3 or supplemental operating budget submitted to the legislature under RCW
4 43.88.030, a request for funds necessary to administer chapter 3, Laws
5 of 2002 and to implement the compensation and fringe benefits
6 provisions of a collective bargaining agreement entered into under RCW
7 74.39A.270 or for legislation necessary to implement such agreement.

8 (2) A request for funds necessary to implement the compensation and
9 fringe benefits provisions of a collective bargaining agreement entered
10 into under RCW 74.39A.270 shall not be submitted by the governor to the
11 legislature unless such request:

12 (a) Has been submitted to the director of financial management by
13 October 1st prior to the legislative session at which the request is to
14 be considered; and

15 (b) Has been certified by the director of financial management as
16 being feasible financially for the state or reflects the binding
17 decision of an arbitration panel reached under RCW 74.39A.270(2)(c).

18 (3) The legislature must approve or reject the submission of the
19 request for funds as a whole. If the legislature rejects or fails to
20 act on the submission, any such agreement will be reopened solely for
21 the purpose of renegotiating the funds necessary to implement the
22 agreement.

23 (4) When any increase in individual provider wages or benefits is
24 negotiated or agreed to, no increase in wages or benefits negotiated or
25 agreed to under this chapter will take effect unless and until, before
26 its implementation, the department has determined that the increase is
27 consistent with federal law and federal financial participation in the
28 provision of services under Title XIX of the federal social security
29 act.

30 (5) The governor shall periodically consult with the joint
31 committee on employment relations established by RCW 41.80.010
32 regarding appropriations necessary to implement the compensation and
33 fringe benefits provisions of any collective bargaining agreement and,
34 upon completion of negotiations, advise the committee on the elements
35 of the agreement and on any legislation necessary to implement such
36 agreement.

37 (6) After the expiration date of any collective bargaining
38 agreement entered into under RCW 74.39A.270, all of the terms and

1 conditions specified in any such agreement remain in effect until the
2 effective date of a subsequent agreement, not to exceed one year from
3 the expiration date stated in the agreement, except as provided in RCW
4 74.39A.270(~~(+6+)~~) (5)(f).

5 (7) If, after the compensation and benefit provisions of an
6 agreement are approved by the legislature, a significant revenue
7 shortfall occurs resulting in reduced appropriations, as declared by
8 proclamation of the governor or by resolution of the legislature, both
9 parties shall immediately enter into collective bargaining for a
10 mutually agreed upon modification of the agreement.

11 NEW SECTION. **Sec. 10.** The following acts or parts of acts are
12 each repealed:

13 (1) RCW 74.39A.260 (Department duties) and 2002 c 3 s 5;

14 (2) RCW 74.39A.280 (Powers) and 2002 c 3 s 7; and

15 (3) RCW 70.127.041 (Home care quality authority not subject to
16 regulation) and 2002 c 3 s 13.

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