
SECOND SUBSTITUTE HOUSE BILL 1908

State of Washington

54th Legislature

1995 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Dyer, Cooke, Ballasiotes, Stevens, Elliot, Talcott, Cairnes, Lambert, Pelesky, Hymes, Robertson, Mielke, Carrell, Backlund and L. Thomas)

Read first time 03/24/95.

1 AN ACT Relating to long-term care; amending RCW 74.39.005,
2 74.39.040, 74.39A.010, 70.128.005, 70.128.007, 70.128.010, 70.128.057,
3 70.128.060, 70.128.070, 70.128.120, 70.128.080, 70.128.090, 70.128.130,
4 70.128.140, 70.128.150, 70.128.160, 70.128.175, 43.190.020, 43.190.060,
5 74.08.545, 74.08.550, 74.08.570, 18.51.091, 18.51.140, 18.51.300,
6 11.40.010, 11.42.020, 11.62.010, 11.28.120, 18.39.250, 18.39.255,
7 68.46.050, 70.129.040, 43.20B.080, 74.42.020, 74.46.105, 74.46.115,
8 74.46.640, and 74.46.690; reenacting and amending RCW 18.130.040;
9 adding new sections to chapter 74.39A RCW; adding new sections to
10 chapter 70.41 RCW; adding a new section to chapter 18.20 RCW; adding
11 new sections to chapter 70.128 RCW; adding new sections to chapter
12 74.46 RCW; adding a new chapter to Title 18 RCW; creating a new
13 section; recodifying RCW 74.08.530, 74.08.560, 74.08.570, 74.08.545,
14 and 74.08.550; repealing RCW 70.128.180 and 74.08.541; prescribing
15 penalties; providing an effective date; and declaring an emergency.

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

17 NEW SECTION. **Sec. 1.** A new section is added to chapter 74.39A RCW
18 to read as follows:

1 Unless the context clearly requires otherwise, the definitions in
2 this section apply throughout this chapter.

3 (1) "Adult family home" means a facility licensed under chapter
4 70.128 RCW.

5 (2) "Adult residential care" means services provided by a boarding
6 home that is licensed under chapter 18.20 RCW and that has a contract
7 with the department under section 11 of this act.

8 (3) "Aging and adult services administration" means the aging and
9 adult services administration of the department.

10 (4) "Assisted living services" means services provided by a
11 boarding home that has a contract with the department under RCW
12 74.39A.010 and the resident is housed in a private apartment-like unit.

13 (5) "Boarding home" means a facility licensed under chapter 18.20
14 RCW.

15 (6) "Cost-effective care" means care provided in a setting of an
16 individual's choice that is necessary to enable an individual to
17 achieve his or her highest practicable level of physical, mental, and
18 psychosocial well-being, in an environment that is appropriate to the
19 care and safety needs of the individual, and such care cannot be
20 provided at a lower cost in any other setting. But this in no way
21 precludes an individual from choosing a different residential setting
22 to achieve his or her desired quality of life. The words "highest
23 practicable level" as used in this subsection shall not be construed to
24 require the adoption of any new administrative rules regulating long-
25 term care providers.

26 (7) "Department" means the department of social and health
27 services.

28 (8) "Home and community services" means assisted living services,
29 modified assisted living services, adult residential care, adult family
30 homes, in-home services, and other services administered by the aging
31 and adult services administration of the department directly or through
32 contract with area agencies on aging.

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

37 (10) "Modified assisted living services" means services provided by
38 a boarding home that is licensed under chapter 18.20 RCW and that has
39 a contract with the department under RCW 74.39A.010.

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

4 (12) "Nursing home" means a facility licensed under chapter 18.51
5 RCW.

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

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

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

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

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

18 (b) be authorized to use funds available under its community options
19 program entry system waiver granted under section 1915(c) of the
20 federal social security act to expand the availability of in-home,
21 adult residential care, adult family homes, and modified assisted
22 living services. By June 30, 1997, the department shall undertake to
23 reduce the nursing home medicaid census by at least one thousand by
24 assisting individuals who would otherwise require nursing facility
25 services to obtain services of their choice, including assisted living
26 services, modified assisted living services, and other home and
27 community services. In contracting with nursing homes and boarding
28 homes for modified assisted living service placements, the department
29 shall not require, by contract or through other means, structural
30 modifications to existing building construction.

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

34 (b) The department may authorize a modified assisted living rate
35 for nursing homes that temporarily or permanently convert their bed use
36 for the purpose of providing modified assisted living services under
37 chapter 70.38 RCW, when the department determines that payment of a
38 modified rate is cost-effective and necessary to foster expansion of

1 contracted modified assisted living services. As an incentive for
2 nursing homes to permanently delicense a portion of its nursing home
3 bed capacity for the purpose of providing modified assisted living
4 services, the department may authorize a supplemental add-on to the
5 modified assisted living services rate.

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

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

14 (1)(a) The department of social and health services, in
15 consultation with hospitals and acute care facilities, shall promote
16 the most appropriate and cost-effective use of long-term care services
17 by developing and distributing to hospitals and other appropriate
18 health care settings information on the various chronic long-term care
19 programs that it administers directly or through contract. The
20 information developed by the department of social and health services
21 shall, at a minimum, include the following:

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

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

27 (iii) A long-term care services resource manual for each hospital,
28 that identifies the long-term care services operating within each
29 hospital's patient service area. The long-term care services resource
30 manual shall, at a minimum, identify the name, address, and telephone
31 number of each entity known to be providing long-term care services; a
32 brief description of the programs or services provided by each of the
33 identified entities; and the name or names of a person or persons who
34 may be contacted for further information or assistance in accessing the
35 programs or services at each of the identified entities.

36 (b) The information required in (a) of this subsection shall be
37 periodically updated and distributed to hospitals by the department of
38 social and health services so that the information reflects current

1 long-term care service options available within each hospital's patient
2 service area.

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

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

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

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

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

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

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

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

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

28 Hospitals and acute care facilities shall:

29 (1) Establish and maintain a system for discharge planning for
30 those patients in need of long-term care and designate a person
31 responsible for system management and implementation;

32 (2) To assist in addressing long-term care needs, establish written
33 policies and procedures to:

34 (a) Identify patients needing further nursing, therapy, or
35 supportive care following discharge from the hospital;

36 (b) Develop a documented discharge plan for each identified patient
37 including:

- 1 (i) Coordinate with patient and family or caregiver, as
2 appropriate;
- 3 (ii) Coordinate with appropriate members of the health care team;
- 4 (iii) Coordinate with the receiving agency or agencies, when
5 necessary; and
- 6 (iv) Work cooperatively with the department of social and health
7 services and local long-term care information and assistance
8 organizations in the planning and implementation of long-term care
9 patient discharge services;
- 10 (c) Notify referral agencies, minimally to include verbal contact
11 and communication regarding:
- 12 (i) Relevant patient history;
- 13 (ii) Specific care requirements including equipment, supplies, and
14 medications needed; and
- 15 (iii) Date care is to be initiated;
- 16 (d) For those patients identified under (a) of this subsection,
17 assess and document needs and implement discharge plans to the extent
18 possible by the hospital; and
- 19 (e) Provide any patient needing long-term care services both
20 written and verbal information on the array of long-term care options,
21 the most appropriate and cost-effective care services available, and
22 the eligibility criteria, locations, directions, contact persons, and
23 other information that will promote an informed choice of care for the
24 patient, family members, or legal representative.

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

27 The purpose of this chapter is to:

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

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

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

37 (4) Ensure that long-term care service options shall be developed
38 and made available that enable functionally disabled persons to

1 continue to live in their homes or other community residential
2 facilities while in the care of their families or other volunteer
3 support persons;

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

9 (6) Develop a systematic plan for the coordination, planning,
10 budgeting, and administration of long-term care services now fragmented
11 between the division of developmental disabilities, division of mental
12 health, aging and adult services administration, division of children
13 and family services, division of vocational rehabilitation, office on
14 AIDS, division of health, and bureau of alcohol and substance abuse;

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

18 (8) Ensure that individuals and organizations affected by or
19 interested in long-term care programs have an opportunity to
20 participate in identification of needs and priorities, policy
21 development, planning, and development, implementation, and monitoring
22 of state supported long-term care programs;

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

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

30 **Sec. 7.** RCW 74.39.040 and 1989 c 427 s 13 are each amended to read
31 as follows:

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

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

37 ~~(b) Six members, to be selected by the executive committee, who~~
38 ~~shall be authorities in gerontology, developmental disabilities,~~

1 neurological impairments, physical disabilities, mental illness,
2 nursing, long term care service delivery, long term care service
3 financing, systems development, or systems analysis;

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

6 (d) Two members, to be selected by the executive committee, who
7 represent county government;

8 (e) One member, to be selected by the secretary of social and
9 health services, to represent the department of social and health
10 services long term care programs, including at least developmental
11 disabilities, mental health, aging and adult services, AIDS, children's
12 services, alcohol and substance abuse, and vocational rehabilitation;
13 and

14 (f) Two members, to represent the governor, who shall serve on the
15 executive committee.

16 The legislative members shall select a chair from the membership of
17 the commission.

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

20 The commission may form technical advisory committees to assist it
21 with any particular matters deemed necessary by the commission.

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

27 The commission may receive appropriations, grants, gifts, and other
28 payments from any governmental or other public or private entity or
29 person which it may use to defray the cost of its operations or to
30 contract for technical assistance, with the approval of the senate
31 committee on facilities and operations and the house of representatives
32 executive rules committee.

33 (2) The long term care commission shall develop legislation and
34 recommend administrative actions necessary to achieve the following
35 long term care reforms:

36 (a) The systematic coordination, planning, budgeting, and
37 administration of long term care services currently administered by the
38 department of social and health services, division of developmental
39 disabilities, aging and adult services administration, division of

1 vocational rehabilitation, office on AIDS, division of health, and the
2 bureau of alcohol and substance abuse;

3 (b)) The legislature finds the intent of the 1989 legislature to
4 reform statutory provisions of long-term care for persons of all ages
5 with chronic functional disability, although not enacted, continues to
6 be applicable. The need to streamline the current bureaucratic
7 fragmentation of chronic health services for the person with functional
8 disabilities and facilitate the development of client centered,
9 accessible, high quality, cost-effective, and appropriate long-term
10 care services options for persons with functional disabilities is even
11 more pressing today. The legislature further finds that if we are
12 going to meet the significant and growing chronic care needs in the
13 next two decades, rapid fundamental changes will need to take place in
14 the way we finance, organize, and provide long-term care services to
15 the functionally disabled. The public demands, and it is the intent of
16 the legislature to reduce the cost and size of government and provide
17 efficient and effective public service to the persons most impaired by
18 chronic functional disability.

19 To realize the need for a cost-effective, uniform, and fully
20 integrated long-term care system while simultaneously reducing the size
21 and cost of government, the joint committee on health systems oversight
22 if enacted pursuant to House Bill No. 1262 or the legislative budget
23 committee if House Bill No. 1262 is not enacted, shall develop a
24 working plan for long-term care reform, including recommendations and
25 statutory changes, by December 12, 1995, to accomplish the following:

26 (1) Reorganize and consolidate, on a noncategorical basis, all
27 disease or age-specific (categorical) organizational entities of state
28 administration and their regional elements pertaining to chronic care
29 services to persons with functional mental and physical disabilities,
30 including but not limited to: In the department of social and health
31 services: Health and rehabilitative services and aging and adult
32 services; in the department of health: Aids chronic care and boarding
33 homes; the department of services to the blind; in the department of
34 veterans affairs: Nursing facilities; and in all other state agencies
35 that provide chronic long-term health care services;

36 (2) Implement a streamlined client centered administrative and
37 delivery system for long-term care services state-wide that
38 incorporates all long-term care services for the person with functional
39 disabilities to include the functionally disabled, developmentally

1 disabled, mentally ill, traumatically brain injured, and others with
2 chronic functional disabilities. The system shall be a single point
3 entry system administered at the local level that allows the person
4 with functional disabilities to obtain needs determination, eligibility
5 screening, priority setting, and services information and assistance.
6 The system shall be designed so that acute health care services are
7 effectively coordinated with long-term care services. The system shall
8 recognize and respect the individuality and dignity of all functionally
9 disabled individuals and promote self-reliance and the preference for
10 the assistance and comfort provided by families, friends, and community
11 volunteers. It shall also recognize the importance of community
12 organizations and the public and private infrastructure in the delivery
13 of care and support. All major points of access into the long-term
14 care system shall be identified and integrated into the system to
15 insure that clients are fully informed of the most appropriate least
16 expensive care options;

17 (3) Provision of long-term care services to persons based on their
18 functional disabilities noncategorically and in the most independent
19 living situation consistent with the person's needs and preferences;

20 ~~((e))~~ (4) A consistent definition of appropriate roles and
21 responsibilities for state and local government, regional
22 organizations, and private organizations in the planning,
23 administration, financing, and delivery of long-term care services;

24 ~~((d))~~ (5) Technical assistance to enable local communities to
25 have greater participation and control in the planning, administration,
26 and provision of long-term care services;

27 ~~((e))~~ (6) A case management system that coordinates an
28 appropriate and cost-effective plan of care and services for eligible
29 functionally disabled persons based on their individual needs and
30 preferences;

31 ~~((f))~~ (7) A sufficient supply of quality institutional and
32 noninstitutional residential alternatives for functionally disabled
33 persons, and supports for the providers of such services;

34 ~~((g))~~ (8) Public and private alternative funding for long-term
35 care services, ~~((such as federal Title XIX funding of personal care~~
36 ~~services through the limited casualty program for the medically needy~~
37 ~~and other optional services)) that includes the promotion of affordable~~
38 stand alone long-term care insurance options or as part of overall
39 health care insurance benefits, a uniform fee copayment scale for

1 client participation in state-funded, long-term care programs, and
2 private, long-term care insurance;

3 ~~((h))~~ (9) A systematic and balanced long-term care services
4 payment and reimbursement system, including a case mix nursing home
5 reimbursement, that will provide access to needed services while
6 controlling the rate of cost increases for such services;

7 ~~((i))~~ (10) Active involvement of volunteers and advocacy groups;

8 ~~((j))~~ (11) An integrated data base that provides long-term care
9 client tracking;

10 ~~((k))~~ (12) A coordinated education system for long-term care to
11 insure client safety and quality of services; ((and

12 ~~(l))~~ (13) Administratively separate the nonmeans tested economic
13 and social welfare and advocacy programs of the older Americans act, 42
14 U.S.C. Chap 35 and 45 C.F.R. 1321 et seq. from the need and means
15 tested programs for persons with functional disabilities;

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

21 (15) Other issues deemed appropriate by the ~~((implementation team))~~
22 joint committee on health systems oversight.

23 The ~~((commission))~~ joint committee on health systems oversight, if
24 created in House Bill No. 1262, or the legislative budget committee if
25 House Bill No. 1262 is not enacted, shall report to the legislature
26 with its findings, recommendations, and proposed legislation by
27 December ~~((1, 1990))~~ 12, 1995.

28 NEW SECTION. Sec. 8. A new section is added to chapter 74.39A RCW
29 to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

31 (5) The department may not provide the substance of the complaint
32 to the licensee or contractor before the completion of the
33 investigation by the department. Neither the substance of the
34 complaint provided to the licensee or contractor nor any copy of the
35 complaint or related report published, released, or made otherwise
36 available shall disclose the name, title, or identity of any
37 complainant, or other person mentioned in the complaint, except that

1 the department may disclose the identity of the complainant if such
2 disclosure is requested in writing by the complainant.

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

11 (7) The office of the long-term care ombudsman shall receive funds
12 to increase its staff by one full-time equivalent to accomplish the
13 increased activities consistent with the implementation of this act.

14 **Sec. 10.** RCW 74.39A.010 and 1993 c 508 s 3 are each amended to
15 read as follows:

16 (1) To the extent of available funding, the department of social
17 and health services may contract with licensed boarding homes under
18 chapter 18.20 RCW and tribally licensed boarding homes for assisted
19 living services and modified assisted living services. The department
20 shall develop ~~((rules))~~ terms and conditions for facilities that
21 contract with the department for assisted living services or modified
22 assisted living services to establish:

23 (a) Facility service standards consistent with the principles in
24 section 8 of this act and consistent with chapter 70.129 RCW;

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

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

28 (2) The department's terms and conditions shall provide that
29 ~~((ensure that the contracted))~~ services in assisted living and modified
30 assisted living facilities:

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

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

35 ~~((+3))~~ (c) Are of sufficient scope to assure that each resident
36 who chooses to remain in the assisted living or modified assisted
37 living settings may do so, ~~((unless nursing care needs exceed the level~~
38 of care defined by the department)) to the extent that the care

1 provided continues to be cost-effective and safe. However, the
2 resident may waive the provision of any service that would otherwise
3 promote their ability to function at their highest practicable level,
4 but only if the resident has been fully informed as to his or her need
5 for and potential to benefit from the services that are to be waived;

6 ((+4)) (d) Are directed first to those persons most likely, in the
7 absence of modified assisted living services or assisted living
8 services, to need hospital, nursing facility, or other out-of-home
9 placement; and

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

12 (3) When a facility contracts with the department for assisted
13 living services or modified assisted living services, only services and
14 facility standards that are provided to or in behalf of the assisted
15 living services or modified assisted living services client shall be
16 subject to the department's contract standards.

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

19 (1) To the extent of available funding, the department of social
20 and health services may contract for adult residential care.

21 (2) The department shall, by contract, develop terms and conditions
22 for facilities that contract with the department for adult residential
23 care to establish:

24 (a) Facility service standards consistent with the principles in
25 section 8 of this act and consistent with chapter 70.129 RCW; and

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

27 (3) The department shall, by contract, provide that services in
28 adult residential care facilities:

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

30 (b) Include personal care services and other services that promote
31 independence and self-sufficiency and aging in place;

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

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

37 (4) When a facility contracts with the department for adult
38 residential care, only services and facility standards that are

1 provided to or in behalf of the adult residential care client shall be
2 subject to the adult residential care contract standards.

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

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

11 (1) The department shall, by contract, establish reasonable minimum
12 qualifications and training requirements to assure that assisted living
13 service, modified assisted living service, and adult residential care
14 providers with whom the department contracts are capable of providing
15 services consistent with this chapter.

16 (2) The department shall not contract for assisted living, modified
17 assisted living, or adult residential care services with a provider if
18 the department finds that the provider or any partner, officer,
19 director, managerial employee, or owner of five percent or more of the
20 provider has a history of significant noncompliance with federal or
21 state regulations, rules, or laws in providing care or services to
22 vulnerable adults or to children.

23 NEW SECTION. **Sec. 13.** A new section is added to chapter 74.39A
24 RCW to read as follows:

25 (1) The department is authorized to take one or more of the actions
26 listed in subsection (2) of this section in any case in which the
27 department finds that a provider of assisted living services, modified
28 assisted living services, or adult residential care services has:

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

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

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

36 (d) Willfully prevented or interfered with any inspection or
37 investigation by the department.

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

3 (a) Refuse to issue a contract;

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

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

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

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

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

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

25 NEW SECTION. **Sec. 14.** A new section is added to chapter 18.20 RCW
26 to read as follows:

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

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

32 (b) Operated a boarding home without a license or under a revoked
33 license;

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

1 (d) Willfully prevented or interfered with any inspection or
2 investigation by the department.

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

5 (a) Refuse to issue a license;

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

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

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

12 (e) Suspend admissions to the boarding home by imposing stop
13 placement.

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

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

27 **Sec. 15.** RCW 70.128.005 and 1989 c 427 s 14 are each amended to
28 read as follows:

29 The legislature finds that:

30 (1) Adult family homes are an important part of the state's long-
31 term care system. Adult family homes provide an alternative to
32 institutional care and promote a high degree of independent living for
33 residents;

34 (2) Persons with functional limitations have broadly varying
35 service needs. Adult family homes that can meet those needs are an
36 essential component of a long-term system;

1 (3) The development and operation of adult family homes that can
2 provide quality personal care and special care services should be
3 encouraged.

4 **Sec. 16.** RCW 70.128.007 and 1989 c 427 s 15 are each amended to
5 read as follows:

6 The purposes of this chapter are to:

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

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

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

17 (4) Provide for appropriate care of residents in adult family homes
18 by requiring that each resident have a care plan that promotes his or
19 her ability to achieve their highest practicable level of physical,
20 mental, and psychosocial functioning, unless the resident chooses not
21 to receive any such services after being fully informed as to the need
22 for and potential to benefit from services that are to be waived. The
23 words "highest practicable level" as used in this subsection shall not
24 be construed to require the adoption of any new administrative rules
25 regulating adult family homes; and

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

29 **Sec. 17.** RCW 70.128.010 and 1989 c 427 s 16 are each amended to
30 read as follows:

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

33 (1) "Adult family home" means a regular family abode (~~(of))~~ in
34 which a person or persons (~~(who are providing))~~ provides personal care,
35 special care, room, and board to more than one but not more than
36 (~~(four))~~ six adults who are not related by blood or marriage to the
37 person or persons providing the services(~~(; except that a maximum of~~

1 ~~six adults may be permitted if the department determines that the home~~
2 ~~is of adequate size and that the home and the provider are capable of~~
3 ~~meeting standards and qualifications as provided for in this act)).~~

4 (2) "Provider" means any person who is licensed under this chapter
5 to operate an adult family home. The provider shall reside at the
6 adult family home(~~(, except that)~~). Exceptions may be authorized by
7 the department ((for good cause,)) through standards as defined in
8 rule.

9 (3) "Department" means the department of social and health
10 services.

11 (4) "Resident" means an adult in need of personal or special care
12 in an adult family home who is not related to the provider.

13 (5) "Adults" means persons who have attained the age of eighteen
14 years.

15 (6) "Home" means an adult family home.

16 (7) "Imminent danger" means serious physical harm to or death of a
17 resident has occurred, or there is a serious threat to resident life,
18 health, or safety.

19 (8) "Special care" means care beyond personal care as defined by
20 the department, in rule.

21 (9) "Capacity" means the maximum number of persons in need of
22 personal or special care permitted in an adult family home at a given
23 time. This number shall include related children or adults living in
24 the home and who receive full-time care.

25 **Sec. 18.** RCW 70.128.057 and 1991 c 40 s 2 are each amended to read
26 as follows:

27 Notwithstanding the existence or use of any other remedy, the
28 department may, in the manner provided by law, upon the advice of the
29 attorney general who shall represent the department in the proceedings,
30 maintain an action in the name of the state for an injunction, civil
31 penalty, or other process against a person to restrain or prevent the
32 operation or maintenance of an adult family home without a license
33 under this chapter.

34 NEW SECTION. **Sec. 19.** A new section is added to chapter 70.128
35 RCW to read as follows:

36 The legislature finds that the operation of an adult family home
37 without a license in violation of this chapter is a matter vitally

1 affecting the public interest for the purpose of applying the consumer
2 protection act, chapter 19.86 RCW. Operation of an adult family home
3 without a license in violation of this chapter is not reasonable in
4 relation to the development and preservation of business. Such a
5 violation is an unfair or deceptive act in trade or commerce and an
6 unfair method of competition for the purpose of applying the consumer
7 protection act, chapter 19.86 RCW.

8 **Sec. 20.** RCW 70.128.060 and 1989 c 427 s 20 are each amended to
9 read as follows:

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

13 (2) The department shall issue a license to an adult family home if
14 the department finds that the applicant and the home are in compliance
15 with this chapter and the rules adopted under this chapter; and that
16 the applicant has no prior violations of this chapter relating to the
17 adult family home subject to the application or any other adult family
18 home, or of any other law regulating residential care facilities within
19 the past five years that resulted in revocation or nonrenewal of a
20 license.

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

27 (4) The license fee shall be submitted with the application.

28 ~~((4))~~ (5) The department shall license an adult family home for
29 the maximum level of care that the adult family home may provide. The
30 department shall define, in rule, license levels based upon the
31 education, training, and caregiving experience of the licensed provider
32 or staff.

33 (6) The department shall serve upon the applicant a copy of the
34 decision granting or denying an application for a license. An
35 applicant shall have the right to contest denial of his or her
36 application for a license as provided in chapter 34.05 RCW by
37 requesting a hearing in writing within ~~((ten))~~ twenty-eight days after
38 receipt of the notice of denial.

1 (~~(5)~~) A provider shall not be licensed for more than one adult
2 family home. Exceptions may be authorized by the department for good
3 cause, as defined in rule. The department shall submit to appropriate
4 committees of the legislature, by December 1, 1991, a report on the
5 number and type of good cause exceptions granted.

6 ~~(6))~~ (7) The department shall establish, by rule, standards used
7 to license nonresident providers and multiple facility operators.

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

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

14 **Sec. 21.** RCW 70.128.070 and 1989 c 427 s 22 are each amended to
15 read as follows:

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

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

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

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

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

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

1 **Sec. 22.** RCW 70.128.120 and 1989 c 427 s 24 are each amended to
2 read as follows:

3 An adult family home provider shall have the following minimum
4 qualifications:

5 (1) Twenty-one years of age or older;

6 (2) Good moral and responsible character and reputation;

7 (3) Literacy; (~~and~~)

8 (4) Management and administrative ability to carry out the
9 requirements of this chapter;

10 (5) Satisfactory completion of department-approved initial training
11 and continuing education training as specified by the department in
12 rule;

13 (6) Satisfactory completion of department-approved, or equivalent,
14 special care training before a provider may provide special care
15 services to a resident;

16 (7) Not been convicted of any crime listed in RCW 43.43.830 and
17 43.43.842; and

18 (8) Registered with the department of health.

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

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

23 (1) Its license to operate; and

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

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

28 (1) During inspections of an adult family home, the department
29 shall have access and authority to examine areas and articles in the
30 home used to provide care or support to residents, including residents'
31 records, accounts, and the physical premises, including the buildings,
32 grounds, and equipment. The department also shall have the authority
33 to interview the provider and residents of an adult family home.

34 (2) Whenever an inspection is conducted, the department shall
35 prepare a written report that summarizes all information obtained
36 during the inspection, and if the home is in violation of this chapter,
37 serve a copy of the inspection report upon the provider at the same

1 time as a notice of violation. If the home is not in violation of this
2 chapter, a copy of the inspection report shall be mailed to the
3 provider within ten days of the inspection of the home. All inspection
4 reports shall be made available to the public at the department during
5 business hours.

6 (3) (~~The inspection report shall describe any corrective measures~~
7 ~~on the part of the provider necessary to pass a reinspection. If the~~
8 ~~department finds upon reinspection of the home that the corrective~~
9 ~~measures have been satisfactorily implemented, the department shall~~
10 ~~cease any actions taken against the home. Nothing in this section~~
11 ~~shall require the department to license or renew the license of a home~~
12 ~~where serious physical harm or death has occurred to a resident)) The
13 provider shall develop corrective measures for any violations found by
14 the department's inspection. The department may provide consultation
15 and technical assistance to assist the provider in developing effective
16 corrective measures. The department shall include a statement of the
17 provider's corrective measures in the department's inspection report.~~

18 NEW SECTION. Sec. 25. A new section is added to chapter 70.128
19 RCW to read as follows:

20 The legislature recognizes that adult care homes located within the
21 boundaries of a federally recognized Indian reservation may be licensed
22 by the Indian tribe. The department may pay for care for persons
23 residing in such homes, if there has been a tribal or state criminal
24 background check of the provider and any staff, and the client is
25 otherwise eligible for services administered by the department.

26 **Sec. 26.** RCW 70.128.130 and 1989 c 427 s 26 are each amended to
27 read as follows:

28 (1) Providers must own, rent, or lease the home to be licensed.
29 Exceptions may be granted by the department to churches, hospitals,
30 nonprofit associations, or similar organizations.

31 (2) Adult family homes shall be maintained internally and
32 externally in good repair and condition. Such homes shall have safe
33 and functioning systems for heating, cooling, hot and cold water,
34 electricity, plumbing, garbage disposal, sewage, cooking, laundry,
35 artificial and natural light, ventilation, and any other feature of the
36 home.

1 ~~((+2))~~ (3) Adult family homes shall be maintained in a clean and
2 sanitary manner, including proper sewage disposal, food handling, and
3 hygiene practices.

4 ~~((+3))~~ (4) Adult family homes shall develop a fire drill plan for
5 emergency evacuation of residents, shall have smoke detectors in each
6 bedroom where a resident is located, shall have fire extinguishers on
7 each floor of the home, and shall not keep nonambulatory patients above
8 the first floor of the home.

9 ~~((+4))~~ (5) Adult family homes shall have clean, functioning, and
10 safe household items and furnishings.

11 ~~((+5))~~ (6) Adult family homes shall provide a nutritious and
12 balanced diet and shall recognize residents' needs for special diets.

13 ~~((+6))~~ (7) Adult family home providers shall ensure that all
14 residents receive care consistent with the resident's plan of care.

15 (8) Adult family homes shall establish health care procedures for
16 the care of residents including medication administration and emergency
17 medical care.

18 (a) Adult family home residents shall be permitted to self-
19 administer medications.

20 (b) Adult family home providers may administer medications and
21 deliver special care only to the extent ~~((that the provider is a
22 licensed health care professional for whom the administration of
23 medications is within the scope of practice under Washington))~~
24 authorized by law.

25 (9) A provider will ensure that any volunteer, student, employee,
26 or person residing within the adult family home who will have
27 unsupervised access to any resident shall not have been convicted of a
28 crime listed under RCW 43.43.830 or 43.43.842. Except that a person
29 may be conditionally employed pending the completion of a criminal
30 conviction background inquiry.

31 (10) A provider shall offer activities to residents under care as
32 defined by the department in rule.

33 (11) An adult family home provider shall ensure that staff are
34 competent and receive necessary training to perform assigned tasks.

35 **Sec. 27.** RCW 70.128.140 and 1989 c 427 s 27 are each amended to
36 read as follows:

37 Each adult family home shall meet applicable local licensing,
38 zoning, building, and housing codes, and state and local fire safety

1 regulations as they pertain to a single-family residence. It is the
2 responsibility of the home to check with local authorities to ensure
3 all local codes are met.

4 **Sec. 28.** RCW 70.128.150 and 1989 c 427 s 28 are each amended to
5 read as follows:

6 Whenever possible adult family homes are encouraged to contact and
7 work with local quality assurance projects such as the volunteer
8 ombudsman with the goal of assuring high quality care is provided in
9 the home.

10 An adult family home may not willfully interfere with a
11 representative of the long-term care ombudsman program in the
12 performance of official duties. The department shall impose a penalty
13 of not more than one thousand dollars for any such willful
14 interference.

15 **Sec. 29.** RCW 70.128.160 and 1989 c 427 s 31 are each amended to
16 read as follows:

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

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

22 (b) Operated an adult family home without a license or under a
23 revoked license;

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

28 (d) Willfully prevented or interfered with any inspection or
29 investigation by the department.

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

32 (a) Refuse to issue a license;

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

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

1 (d) Suspend, revoke, or refuse to renew a license; or
2 (~~(e)~~) (e) Suspend admissions to the adult family home by imposing
3 stop placement.

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

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

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

18 (1) Unless the context clearly requires otherwise, these
19 definitions shall apply throughout this section and RCW 35.63.140,
20 35A.63.149, 36.70.755, 35.22.680, and 36.32.560(~~(, and 70.128.180)~~):

21 (a) "Adult family home" means a (~~facility licensed pursuant to~~
22 ~~chapter 70.128 RCW or the~~) regular family abode of a person or persons
23 (~~who are~~) providing personal care, special care, room, and board to
24 more than one but not more than six adults who are not related by blood
25 or marriage to the person or persons providing the services.

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

29 (c) "Department" means the department of social and health
30 services.

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

35 NEW SECTION. **Sec. 31.** A new section is added to chapter 70.128
36 RCW to read as follows:

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

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

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

11 NEW SECTION. **Sec. 32.** RCW 70.128.180 and 1989 c 427 s 41 are each
12 repealed.

13 NEW SECTION. **Sec. 33.** The legislature intends to protect the
14 public's right to high quality long-term care by assuring that adult
15 family homes are operated by competent and qualified persons.

16 NEW SECTION. **Sec. 34.** Unless the context clearly requires
17 otherwise, the definitions in this section apply throughout this
18 chapter.

19 (1) "Secretary" means the secretary of the department of health.

20 (2) "Adult family home" means a regular family abode of a person or
21 persons who are providing personal care, room, and board to more than
22 one but not more than four adults who are not related by blood or
23 marriage to the person or persons providing the services. A maximum of
24 six adults may be permitted by the department of social and health
25 services under chapter 70.128 RCW.

26 (3) "Operator" means a provider who is licensed under chapter
27 70.128 RCW to operate an adult family home.

28 (4) "Person" includes an individual, firm, corporation,
29 partnership, or association.

30 NEW SECTION. **Sec. 35.** A person who operates an adult family home
31 shall register the home with the secretary. Each separate location of
32 the business of an adult family home shall have a separate
33 registration.

34 The secretary, by rule, shall establish forms and procedures for
35 the processing of operator registration applications, including the

1 payment of registration fees pursuant to RCW 43.70.250. An application
2 for an adult family home operator registration shall include at least
3 the following information:

4 (1) The names and addresses of the operator of the adult family
5 home; and

6 (2) If the operator is a corporation, copies of its articles of
7 incorporation and current bylaws, together with the names and addresses
8 of its officers and directors.

9 A registration issued by the secretary in accordance with this
10 section shall remain effective for a period of one year from the date
11 of its issuance unless the registration is revoked or suspended
12 pursuant to section 36 of this act, or unless the adult family home is
13 sold or ownership or management is transferred, in which case the
14 registration of the home shall be voided and the operator shall apply
15 for a new registration.

16 NEW SECTION. **Sec. 36.** The uniform disciplinary act, chapter
17 18.130 RCW, shall govern the issuance and denial of registration and
18 the discipline of persons registered under this chapter. The secretary
19 shall be the disciplinary authority under this chapter.

20 NEW SECTION. **Sec. 37.** Sections 33 through 36 of this act shall
21 constitute a new chapter in Title 18 RCW.

22 **Sec. 38.** RCW 18.130.040 and 1994 sp.s. c 9 s 603 and 1994 c 17 s
23 19 are each reenacted and amended to read as follows:

24 (1) This chapter applies only to the secretary and the boards and
25 commissions having jurisdiction in relation to the professions licensed
26 under the chapters specified in this section. This chapter does not
27 apply to any business or profession not licensed under the chapters
28 specified in this section.

29 (2)(a) The secretary has authority under this chapter in relation
30 to the following professions:

31 (i) Dispensing opticians licensed under chapter 18.34 RCW;

32 (ii) Naturopaths licensed under chapter 18.36A RCW;

33 (iii) Midwives licensed under chapter 18.50 RCW;

34 (iv) Ocularists licensed under chapter 18.55 RCW;

35 (v) Massage operators and businesses licensed under chapter 18.108
36 RCW;

1 (vi) Dental hygienists licensed under chapter 18.29 RCW;
2 (vii) Acupuncturists certified under chapter 18.06 RCW;
3 (viii) Radiologic technologists certified and x-ray technicians
4 registered under chapter 18.84 RCW;
5 (ix) Respiratory care practitioners certified under chapter 18.89
6 RCW;
7 (x) Persons registered or certified under chapter 18.19 RCW;
8 (xi) Persons registered as nursing pool operators under chapter
9 18.52C RCW;
10 (xii) Nursing assistants registered or certified under chapter
11 18.79 RCW;
12 (xiii) Health care assistants certified under chapter 18.135 RCW;
13 (xiv) Dietitians and nutritionists certified under chapter 18.138
14 RCW;
15 (xv) Sex offender treatment providers certified under chapter
16 18.155 RCW; ((and))
17 (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW
18 18.71.205; and
19 (xvii) Persons registered as adult family home operators under
20 section 35 of this act.
21 (b) The boards and commissions having authority under this chapter
22 are as follows:
23 (i) The podiatric medical board as established in chapter 18.22
24 RCW;
25 (ii) The chiropractic quality assurance commission as established
26 in chapter 18.25 RCW;
27 (iii) The dental quality assurance commission as established in
28 chapter 18.32 RCW;
29 (iv) The board on fitting and dispensing of hearing aids as
30 established in chapter 18.35 RCW;
31 (v) The board of examiners for nursing home administrators as
32 established in chapter 18.52 RCW;
33 (vi) The optometry board as established in chapter 18.54 RCW
34 governing licenses issued under chapter 18.53 RCW;
35 (vii) The board of osteopathic medicine and surgery as established
36 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
37 18.57A RCW;
38 (viii) The board of pharmacy as established in chapter 18.64 RCW
39 governing licenses issued under chapters 18.64 and 18.64A RCW;

1 (ix) The medical quality assurance commission as established in
2 chapter 18.71 RCW governing licenses and registrations issued under
3 chapters 18.71 and 18.71A RCW;

4 (x) The board of physical therapy as established in chapter 18.74
5 RCW;

6 (xi) The board of occupational therapy practice as established in
7 chapter 18.59 RCW;

8 (xii) The nursing care quality assurance commission as established
9 in chapter 18.79 RCW governing licenses issued under that chapter;

10 (xiii) The examining board of psychology and its disciplinary
11 committee as established in chapter 18.83 RCW;

12 (xiv) The veterinary board of governors as established in chapter
13 18.92 RCW.

14 (3) In addition to the authority to discipline license holders, the
15 disciplining authority has the authority to grant or deny licenses
16 based on the conditions and criteria established in this chapter and
17 the chapters specified in subsection (2) of this section. This chapter
18 also governs any investigation, hearing, or proceeding relating to
19 denial of licensure or issuance of a license conditioned on the
20 applicant's compliance with an order entered pursuant to RCW 18.130.160
21 by the disciplining authority.

22 **Sec. 39.** RCW 43.190.020 and 1991 sp.s. c 8 s 3 are each amended to
23 read as follows:

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

27 (1) A facility which:

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

32 (b) Provides supportive, restorative, and preventive health
33 services in conjunction with a socially oriented program to its
34 residents, and which maintains and operates twenty-four hour services
35 including board, room, personal care, and intermittent nursing care.
36 "Long-term health care facility" includes nursing homes and nursing
37 facilities, but does not include acute care hospital or other licensed

1 facilities except for that distinct part of the hospital or facility
2 which provides nursing facility services.

3 (2) Any family home, group care facility, or similar facility
4 determined by the secretary, for twenty-four hour nonmedical care of
5 persons in need of personal services, supervision, or assistance
6 essential for sustaining the activities of daily living or for the
7 protection of the individual.

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

9 **Sec. 40.** RCW 43.190.060 and 1987 c 158 s 3 are each amended to
10 read as follows:

11 A long-term care ombudsman shall:

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

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

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

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

29 NEW SECTION. **Sec. 41.** RCW 74.08.530, 74.08.560, 74.08.570,
30 74.08.545, and 74.08.550 are each recodified in chapter 74.39A RCW.

31 NEW SECTION. **Sec. 42.** RCW 74.08.541 and 1989 c 427 s 4, 1986 c
32 222 s 1, 1983 1st ex.s. c 41 s 39, & 1981 1st ex.s. c 6 s 17 are each
33 repealed.

34 **Sec. 43.** RCW 74.08.545 and 1989 c 427 s 5 are each amended to read
35 as follows:

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

14 (1) The kind of services needed;

15 (2) The degree of service need, and the extent to which an
16 individual is dependent upon such services to remain in his or her home
17 or return to his or her home;

18 (3) The availability of personal or community resources which may
19 be utilized to meet the individual's need; and

20 (4) Such other factors as the department considers necessary to
21 insure service is provided only to those persons whose chore service
22 needs cannot be met by relatives, friends, nonprofit organizations,
23 ~~((or))~~ other persons, or by other programs or resources.

24 In determining the level of services to be provided under this
25 chapter, ~~((the))~~ the client shall be assessed using an instrument
26 designed by the department to determine the level of functional
27 disability, the need for service and the person's risk of long-term
28 care facility placement.

29 NEW SECTION. Sec. 44. A new section is added to chapter 74.39A
30 RCW to read as follows:

31 (1) The department shall establish a monthly dollar lid for each
32 region on chore services expenditures within the legislative
33 appropriation. Priority for services shall be given to the following
34 situations:

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

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

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

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

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

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

16 **Sec. 45.** RCW 74.08.550 and 1989 c 427 s 6 are each amended to read
17 as follows:

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

21 (2) The department may provide assistance in the recruiting of
22 providers of the services enumerated in ~~((RCW 74.08.541))~~ section 44 of
23 this act and seek to assure the timely provision of services in
24 emergency situations.

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

29 **Sec. 46.** RCW 74.08.570 and 1989 c 427 s 7 are each amended to read
30 as follows:

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

1 that allows such disabled persons(~~(, taking into consideration the~~
2 ~~person's ability to pay and work expenses)~~) to be employed.

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

7 (3) As used in this section:

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

10 (b) "Work expenses" includes:

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

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

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

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

21 (d) "Disabled" means:

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

25 (ii) Eighteen years of age or older;

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

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

29 **Sec. 47.** RCW 18.51.091 and 1987 c 476 s 24 are each amended to
30 read as follows:

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

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

19 **Sec. 48.** RCW 18.51.140 and 1986 c 266 s 83 are each amended to
20 read as follows:

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

1 department as to the manner and time allowed in which the premises must
2 qualify for a license and set forth the conditions to be remedied with
3 respect to fire regulations. The department, applicant or licensee
4 shall notify the director of community, trade, and economic
5 development, through the director of fire protection, upon completion
6 of any requirements made by him or her, and the director of community,
7 trade, and economic development, through the director of fire
8 protection, or his or her deputy, shall make a reinspection of such
9 premises. Whenever the nursing home to be licensed meets with the
10 approval of the director of community, trade, and economic development,
11 through the director of fire protection, he or she shall submit to the
12 department, a written report approving same with respect to fire
13 protection before a full license can be issued. The director of
14 community, trade, and economic development, through the director of
15 fire protection, shall make or cause to be made inspections of such
16 nursing homes at least ((annually)) every eighteen months.

17 In cities which have in force a comprehensive building code, the
18 provisions of which are determined by the director of community, trade,
19 and economic development, through the director of fire protection, to
20 be equal to the minimum standards of the code for nursing homes adopted
21 by the director of community, trade, and economic development, through
22 the director of fire protection, the chief of the fire department,
23 provided the latter is a paid chief of a paid fire department, shall
24 make the inspection with the director of community, trade, and economic
25 development, through the director of fire protection, or his or her
26 deputy and they shall jointly approve the premises before a full
27 license can be issued.

28 **Sec. 49.** RCW 18.51.300 and 1981 1st ex.s. c 2 s 24 are each
29 amended to read as follows:

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

1 If a nursing home ceases operations, it shall make immediate
2 arrangements, as approved by the department, for preservation of its
3 records.

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

8 NEW SECTION. **Sec. 50.** A new section is added to chapter 74.39A
9 RCW to read as follows:

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

13 (a) The applicant for or recipient of long-term care services
14 transferred the asset for the purpose of qualifying for state or
15 federal coverage for long-term care services and the person who
16 received the asset was aware, or should have been aware, of this
17 purpose;

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

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

23 (2) The civil fine imposed under this section shall be imposed in
24 a judicial proceeding initiated by the department and shall equal the
25 amount the department expends for the care of the applicant or
26 recipient during the period of ineligibility attributable to the amount
27 transferred to the person subject to the civil fine.

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

33 NEW SECTION. **Sec. 51.** A new section is added to chapter 74.39A
34 RCW to read as follows:

35 (1) All payments made in state-funded long-term care shall be
36 recoverable as if they were medical assistance payments subject to

1 recovery under 42 U.S.C. Sec. 1396p and chapter 43.20B RCW, but without
2 regard to the recipient's age.

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

8 NEW SECTION. **Sec. 52.** A new section is added to chapter 74.39A
9 RCW to read as follows:

10 Notwithstanding any other provision of law:

11 (1) In order to facilitate and ensure compliance with the federal
12 social security act, Title XIX, as now existing or hereafter amended,
13 later enactment to be adopted by reference by the director by rule, and
14 other state laws mandating recovery of assets from estates of persons
15 receiving long-term care services, the secretary of the department,
16 with the approval of the office of the attorney general, may pay the
17 reasonable and proper fees of attorneys admitted to practice before
18 courts of this state, and associated professionals such as guardians,
19 who are engaged in probate practice for the purpose of maintaining
20 actions under Title 11 RCW, to the end that assets are not wasted, but
21 are rather collected and preserved, and used for the care of the client
22 or the reimbursement of the department pursuant to this chapter or
23 chapter 43.20B RCW.

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

28 **Sec. 53.** RCW 11.40.010 and 1994 c 221 s 25 are each amended to
29 read as follows:

30 Every personal representative shall, after appointment and
31 qualification, give a notice to the creditors of the deceased, stating
32 such appointment and qualification as personal representative and
33 requiring all persons having claims against the deceased to serve the
34 same on the personal representative or the estate's attorney of record,
35 and file an executed copy thereof with the clerk of the court, within
36 four months after the date of the first publication of such notice
37 described in this section or within four months after the date of the

1 filing of the copy of such notice with the clerk of the court,
2 whichever is the later, or within the time otherwise provided in RCW
3 11.40.013. The four-month time period after the later of the date of
4 the first publication of the notice to creditors or the date of the
5 filing of such notice with the clerk of the court is referred to in
6 this chapter as the "four-month time limitation." Such notice shall be
7 given as follows:

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

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

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

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

20 Except as otherwise provided in RCW 11.40.011 or 11.40.013, any
21 claim not filed within the four-month time limitation shall be forever
22 barred, if not already barred by any otherwise applicable statute of
23 limitations. This bar is effective as to claims against both the
24 decedent's probate assets and nonprobate assets as described in RCW
25 11.18.200. Proof by affidavit of the giving and publication of such
26 notice shall be filed with the court by the personal representative.

27 Acts of a notice agent in complying with chapter 221, Laws of 1994
28 may be adopted and ratified by the personal representative as if done
29 by the personal representative in complying with this chapter, except
30 that if at the time of the appointment and qualification of the
31 personal representative a notice agent had commenced nonprobate notice
32 to creditors under chapter 11.42 RCW, the personal representative shall
33 give published notice as provided in RCW 11.42.180.

34 **Sec. 54.** RCW 11.42.020 and 1994 c 221 s 32 are each amended to
35 read as follows:

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

1 (a) As of the date of the filing of a copy of the notice with the
2 clerk of the superior court for the notice county, the notice agent has
3 no knowledge of the appointment and qualification of a personal
4 representative in the decedent's estate in the state of Washington or
5 of another person becoming a notice agent; and

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

11 (2) The notice must state that all persons having claims against
12 the decedent shall: (a) Serve the same on the notice agent if the
13 notice agent is a resident of the state of Washington upon whom service
14 of all papers may be made, or on the nonprobate resident agent for the
15 notice agent, if any, or on the attorneys of record of the notice agent
16 at their respective address in the state of Washington; and (b) file an
17 executed copy of the notice with the clerk of the superior court for
18 the notice county, within: (i)(A) Four months after the date of the
19 first publication of the notice described in this section; or (B) four
20 months after the date of the filing of the copy of the notice with the
21 clerk of the superior court for the notice county, whichever is later;
22 or (ii) the time otherwise provided in RCW 11.42.050. The four-month
23 time period after the later of the date of the first publication of the
24 notice to creditors or the date of the filing of the notice with the
25 clerk of the court is referred to in this chapter as the "four-month
26 time limitation."

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

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

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

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

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

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

8 (5) A claim not filed within the four-month time limitation is
9 forever barred, if not already barred by an otherwise applicable
10 statute of limitations, except as provided in RCW 11.42.030 or
11 11.42.050. The bar is effective to bar claims against both the probate
12 estate of the decedent and nonprobate assets that were subject to
13 satisfaction of the decedent's general liabilities immediately before
14 the decedent's death. If a notice to the creditors of a decedent is
15 published by more than one notice agent and the notice agents are not
16 acting jointly, the four-month time limitation means the four-month
17 time limitation that applies to the notice agent who first publishes
18 the notice. Proof by affidavit or perjury declaration made under RCW
19 9A.72.085 of the giving and publication of the notice must be filed
20 with the clerk of the superior court for the notice county by the
21 notice agent.

22 **Sec. 55.** RCW 11.62.010 and 1993 c 291 s 1 are each amended to read
23 as follows:

24 (1) At any time after forty days from the date of a decedent's
25 death, any person who is indebted to or who has possession of any
26 personal property belonging to the decedent or to the decedent and his
27 or her surviving spouse as a community, which debt or personal property
28 is an asset which is subject to probate, shall pay such indebtedness or
29 deliver such personal property, or so much of either as is claimed, to
30 a person claiming to be a successor of the decedent upon receipt of
31 proof of death and of an affidavit made by said person which meets the
32 requirements of subsection (2) of this section.

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

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

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

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

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

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

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

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

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

20 (i) That the claiming successor is either personally entitled to
21 full payment or delivery of the property claimed or is entitled to full
22 payment or delivery thereof on the behalf and with the written
23 authority of all other successors who have an interest therein.

24 (3) A transfer agent of any security shall change the registered
25 ownership of the security claimed from the decedent to the person
26 claiming to be the successor with respect to such security upon the
27 presentation of proof of death and of an affidavit made by such person
28 which meets the requirements of subsection (2) of this section. Any
29 governmental agency required to issue certificates of ownership or of
30 license registration to personal property shall issue a new certificate
31 of ownership or of license registration to a person claiming to be a
32 successor of the decedent upon receipt of proof of death and of an
33 affidavit made by such person which meets the requirements of
34 subsection (2) of this section.

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

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

4 **Sec. 56.** RCW 11.28.120 and 1994 c 221 s 23 are each amended to
5 read as follows:

6 Administration of an estate if the decedent died intestate or if
7 the personal representative or representatives named in the will
8 declined or were unable to serve shall be granted to some one or more
9 of the persons hereinafter mentioned, and they shall be respectively
10 entitled in the following order:

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

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

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

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

23 (5)(a) The director of revenue, or the director's designee, for
24 those estates having property subject to the provisions of chapter
25 11.08 RCW; however, the director may waive this right.

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

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

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

1 **Sec. 57.** RCW 18.39.250 and 1989 c 390 s 3 are each amended to read
2 as follows:

3 (1) Any funeral establishment selling funeral merchandise or
4 services by prearrangement funeral service contract and accepting
5 moneys therefore shall establish and maintain one or more
6 prearrangement funeral service trusts under Washington state law with
7 two or more designated trustees, for the benefit of the beneficiary of
8 the prearrangement funeral service contract or may join with one or
9 more other Washington state licensed funeral establishments in a
10 "master trust" provided that each member of the "master trust" shall
11 comply individually with the requirements of this chapter.

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

18 (3) At least ninety percent of the cash purchase price of each
19 prearrangement funeral service contract, paid in advance, excluding
20 sales tax, shall be placed in the trust established or utilized by the
21 funeral establishment. Deposits to the prearrangement funeral service
22 trust shall be made not later than the twentieth day of the month
23 following receipt of each payment made on the last ninety percent of
24 each prearrangement funeral service contract, excluding sales tax.

25 (4) All prearrangement funeral service trust moneys shall be
26 deposited in an insured account in a qualified public depository or
27 shall be invested in instruments issued or insured by any agency of the
28 federal government if these securities are held in a public depository.
29 The account shall be designated as the prearrangement funeral service
30 trust of the funeral establishment for the benefit of the beneficiaries
31 named in the prearrangement funeral service contracts. The
32 prearrangement funeral service trust shall not be considered as, nor
33 shall it be used as, an asset of the funeral establishment.

34 (5) After deduction of reasonable fees for the administration of
35 the trust, taxes paid or withheld, or other expenses of the trust, all
36 interest, dividends, increases, or accretions of whatever nature earned
37 by a trust shall be kept unimpaired and shall become a part of the
38 trust. Adequate records shall be maintained to allocate the share of
39 principal and interest to each contract. Fees deducted for the

1 administration of the trust shall not exceed one percent of the face
2 amount of the prearrangement funeral service contract per annum. In no
3 instance shall the administrative charges deducted from the
4 prearrangement funeral service trust reduce, diminish, or in any other
5 way lessen the value of the trust so that the services or merchandise
6 provided for under the contract are reduced, diminished, or in any
7 other way lessened.

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

12 (a) If the funeral establishment files a verified statement with
13 the trustees that the prearrangement funeral merchandise and services
14 covered by the contract have been furnished and delivered in accordance
15 therewith; or

16 (b) If the funeral establishment files a verified statement with
17 the trustees that the prearrangement funeral merchandise and services
18 covered by the contract have been canceled in accordance with its
19 terms.

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

24 (8) Prearrangement funeral service contracts which have or should
25 have an account in a prearrangement funeral service trust may be
26 terminated by the board if the funeral establishment goes out of
27 business, becomes insolvent or bankrupt, makes an assignment for the
28 benefit of creditors, has its prearrangement funeral service
29 certificate of registration revoked, or for any other reason is unable
30 to fulfill the obligations under the contract. In such event, or upon
31 demand by the purchaser or beneficiary of the prearrangement funeral
32 service contract, the funeral establishment shall refund to the
33 purchaser or beneficiary all moneys deposited in the trust and
34 allocated to the contract unless otherwise ordered by a court of
35 competent jurisdiction. The purchaser or beneficiary may, in lieu of
36 a refund, elect to transfer the prearrangement funeral service contract
37 and all amounts in trust to another funeral establishment licensed
38 under this chapter which will agree, by endorsement to the contract, to
39 be bound by the contract and to provide the funeral merchandise or

1 services. Election of this option shall not relieve the defaulting
2 funeral establishment of its obligation to the purchaser or beneficiary
3 for any amounts required to be, but not placed, in trust.

4 (9) Prior to the sale or transfer of ownership or control of any
5 funeral establishment which has contracted for prearrangement funeral
6 service contracts, any person, corporation, or other legal entity
7 desiring to acquire such ownership or control shall apply to the
8 director in accordance with RCW 18.39.145. Persons and business
9 entities selling or relinquishing, and persons and business entities
10 purchasing or acquiring ownership or control of such funeral
11 establishments shall each verify and attest to a report showing the
12 status of the prearrangement funeral service trust or trusts on the
13 date of the sale. This report shall be on a form prescribed by the
14 board and shall be considered part of the application for a funeral
15 establishment license. In the event of failure to comply with this
16 subsection, the funeral establishment shall be deemed to have gone out
17 of business and the provisions of subsection (8) of this section shall
18 apply.

19 (10) Prearrangement funeral service trust moneys shall not be used,
20 directly or indirectly, for the benefit of the funeral establishment or
21 any director, officer, agent, or employee of the funeral establishment
22 including, but not limited to, any encumbrance, pledge, or other use of
23 prearrangement funeral service trust moneys as collateral or other
24 security.

25 (11)(a) If, at the time of the signing of the prearrangement
26 funeral service contract, the beneficiary of the trust is a recipient
27 of public assistance as defined in RCW 74.04.005, or reasonably
28 anticipates being so defined, the contract may provide that the trust
29 will be irrevocable. If after the contract is entered into, the
30 beneficiary becomes eligible or seeks to become eligible for public
31 assistance under Title 74 RCW, the contract may provide for an election
32 by the beneficiary, or by the purchaser on behalf of the beneficiary,
33 to make the trust irrevocable thereafter in order to become or remain
34 eligible for such assistance.

35 (b) The department of social and health services shall notify the
36 trustee of any prearrangement service trust that the department has a
37 claim on the estate of a beneficiary for long-term care services. Such
38 notice shall be renewed at least every three years. The trustees upon
39 becoming aware of the death of a beneficiary shall give notice to the

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

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

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

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

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

12 (d) Specifies that, in the case of cancellation by a purchaser or
13 beneficiary eligible to cancel under the contract or under this
14 chapter, up to ten percent of the contract amount may be retained by
15 the seller to cover the necessary expenses of selling and setting up
16 the contract;

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

19 **Sec. 58.** RCW 18.39.255 and 1989 c 390 s 4 are each amended to read
20 as follows:

21 Prearranged funeral service contracts funded through insurance
22 shall contain language which:

23 (1) States the amount of insurance;

24 (2) Informs the purchaser of the name and address of the insurance
25 company through which the insurance will be provided, the policy
26 number, and the name of the beneficiary; ((and))

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

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

32 (5) States that for purposes of the contract, the procedures in RCW
33 18.39.250(11)(b) shall control such recoupment.

34 **Sec. 59.** RCW 68.46.050 and 1973 1st ex.s. c 68 s 5 are each
35 amended to read as follows:

36 (1) A bank, trust company, or savings and loan association
37 designated as the depository of prearrangement funds shall permit

1 withdrawal by a cemetery authority of all funds deposited under any
2 specific prearrangement contract plus interest accrued thereon, under
3 the following circumstances and conditions:

4 ~~((+1))~~ (a) If the cemetery authority files a verified statement
5 with the depository that the prearrangement merchandise and services
6 covered by a contract have been furnished and delivered in accordance
7 therewith; or

8 ~~((+2))~~ (b) If the cemetery authority files a verified statement
9 that a specific prearrangement contract has been canceled in accordance
10 with its terms.

11 (2) The department of social and health services shall notify the
12 cemetery authority maintaining a prearrangement trust fund regulated by
13 this chapter that the department has a claim on the estate of a
14 beneficiary for long-term care services. Such notice shall be renewed
15 at least every three years. The cemetery authority upon becoming aware
16 of the death of a beneficiary shall give notice to the department of
17 social and health services, office of financial recovery, who shall
18 file any claim there may be within thirty days of the notice.

19 **Sec. 60.** RCW 70.129.040 and 1994 c 214 s 5 are each amended to
20 read as follows:

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

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

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

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

1 (~~(4)~~) (3) The facility must establish and maintain a system that
2 assures a full and complete and separate accounting of each resident's
3 personal funds entrusted to the facility on the resident's behalf.

4 (a) The system must preclude any commingling of resident funds with
5 facility funds or with the funds of any person other than another
6 resident.

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

9 (~~(5)~~) (4) Upon the death of a resident with a personal fund
10 deposited with the facility the facility must convey within forty-five
11 days the resident's funds, and a final accounting of those funds, to
12 the individual or probate jurisdiction administering the resident's
13 estate; but in the case of a resident who received long-term care
14 services paid for by the state, the funds and accounting shall be sent
15 to the state of Washington, department of social and health services,
16 office of financial recovery. The department shall establish a release
17 procedure for use for burial expenses.

18 **Sec. 61.** RCW 43.20B.080 and 1994 c 21 s 3 are each amended to read
19 as follows:

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

23 (2) Liens may be adjusted by foreclosure in accordance with chapter
24 61.12 RCW.

25 (3) In the case of an individual who was fifty-five years (~~or~~
26 ~~{or}~~) of age or older when the individual received medical assistance,
27 the department shall seek adjustment or recovery from the individual's
28 estate, and from nonprobate assets of the individual as defined by RCW
29 11.02.005 except property passing through a community property
30 agreement, but only for medical assistance consisting of nursing
31 facility services, home and community-based services, other services
32 that the department determines to be appropriate, and related hospital
33 and prescription drug services. Recovery from the individual's estate,
34 including foreclosure of liens imposed under this section, shall be
35 undertaken as soon as practicable, consistent with the requirements of
36 42 U.S.C. Sec. 1396p.

37 (~~(3)~~) (4)(a) The department shall establish procedures consistent
38 with standards established by the federal department of health and

1 human services and pursuant to 42 U.S.C. Sec. 1396p to waive recovery
2 when such recovery would work an undue hardship.

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

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

10 **Sec. 62.** RCW 74.42.020 and 1982 c 120 s 1 are each amended to read
11 as follows:

12 The standards in RCW 74.42.030 through 74.42.570 are the minimum
13 standards for facilities licensed under chapter 18.51 RCW: PROVIDED,
14 HOWEVER, That RCW 74.42.040, 74.42.140 through 74.42.280, 74.42.300,
15 74.42.360, 74.42.370, 74.42.380, 74.42.420 (2), (4), (5), (6) and (7),
16 74.42.430(3), 74.42.450 (2) and (3), 74.42.520, 74.42.530, 74.42.540,
17 74.42.570, and 74.42.580 shall not apply to ~~((Christian Science~~
18 ~~sanatoria facilities operated and listed or certified by The First~~
19 ~~Church of Christ, Scientist, in Boston, Massachusetts)) any nursing
20 home or institution conducted for those who rely upon treatment by
21 prayer or spiritual means in accordance with the creed or tenets of any
22 well-recognized church or religious denomination, or for any nursing
23 home or institution operated for the exclusive care of members of a
24 convent as defined in RCW 84.36.800 or rectory, monastery, or other
25 institution operated for the care of members of the clergy.~~

26 NEW SECTION. **Sec. 63.** A new section is added to chapter 74.46 RCW
27 to read as follows:

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

1 **Sec. 64.** RCW 74.46.105 and 1985 c 361 s 10 are each amended to
2 read as follows:

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

14 (1) Each year the department will provide for field audit of the
15 cost report, statistical reports, and patient trust funds, as
16 established by RCW 74.46.700, of all or a sample of reporting
17 facilities selected by profiles of costs, exceptions, contract
18 terminations, upon special requests or other factors determined by the
19 department.

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

26 (3) Facilities shall be selected for sample audits within one
27 hundred twenty days of submission of a correct and complete cost
28 report, and shall be so informed of the department's intent to audit.
29 Audits so scheduled shall be completed within one year of selection.

30 (4) Where an audit for a recent reporting or trust fund period
31 discloses material discrepancies, undocumented costs or mishandling of
32 patient trust funds, auditors may examine prior unaudited periods, for
33 indication of similar material discrepancies, undocumented costs or
34 mishandling of patient trust funds for not more than two reporting
35 periods preceding the facility reporting period selected in the sample.

36 (5) The audit will result in a schedule summarizing appropriate
37 adjustments to the contractor's cost report. These adjustments will
38 include an explanation for the adjustment, the general ledger account

1 or account group, and the dollar amount. Patient trust fund audits
2 shall be reported separately and in accordance with RCW 74.46.700.

3 (6) Audits shall meet generally accepted auditing standards as
4 promulgated by the American institute of certified public accountants
5 and the standards for audit of governmental organizations, programs,
6 activities and functions as published by the comptroller general of the
7 United States. Audits shall be supervised or reviewed by a certified
8 public accountant.

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

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

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

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

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

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

27 **Sec. 65.** RCW 74.46.115 and 1983 1st ex.s. c 67 s 6 are each
28 amended to read as follows:

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

34 **Sec. 66.** RCW 74.46.640 and 1983 1st ex.s. c 67 s 34 are each
35 amended to read as follows:

36 (1) Payments to a contractor may be withheld by the department in
37 each of the following circumstances:

1 (a) A required report is not properly completed and filed by the
2 contractor within the appropriate time period, including any approved
3 extension. Payments will be released as soon as a properly completed
4 report is received;

5 (b) State auditors, department auditors, or authorized personnel in
6 the course of their duties are refused access to a nursing ((home))
7 facility or are not provided with existing appropriate records.
8 Payments will be released as soon as such access or records are
9 provided;

10 (c) A refund in connection with a settlement or rate adjustment is
11 not paid by the contractor when due. The amount withheld will be
12 limited to the unpaid amount of the refund; ((and))

13 (d) Payment for the final thirty days of service under a contract
14 will be held in the absence of adequate alternate security acceptable
15 to the department pending final settlement when the contract is
16 terminated; and

17 (e) Payment for services at any time during the contract period in
18 the absence of adequate alternate security acceptable to the
19 department, if a nursing facility's medicaid overpayment liability, as
20 determined by preliminary settlement, or final settlement, or both,
21 reaches or exceeds fifty thousand dollars, whether subject to a good
22 faith dispute or not, and for each subsequent increase in liability
23 reaching or exceeding twenty-five thousand dollars. Payments will be
24 released as soon as acceptable security is provided or refund to the
25 department is made.

26 (2) No payment will be withheld until written notification of the
27 suspension is provided to the contractor, stating the reason
28 ((therefor)) for the withholding, except that a request for
29 administrative review or appeal of a suspension of payment, if
30 available to the contractor and not already exhausted, shall not delay
31 suspension of payment pending the outcome of the review or appeal.

32 **Sec. 67.** RCW 74.46.690 and 1985 c 361 s 3 are each amended to read
33 as follows:

34 (1) When a facility contract is terminated for any reason, the old
35 contractor shall submit final reports as required by RCW 74.46.040.

36 (2) Upon notification of a contract termination, the department
37 shall determine by preliminary or final settlement calculations the
38 amount of any overpayments made to the contractor, including

1 overpayments disputed by the contractor. If preliminary or final
2 settlements are unavailable for any period up to the date of contract
3 termination, the department shall make a reasonable estimate of any
4 overpayment or underpayments for such periods. The reasonable estimate
5 shall be based upon prior period settlements, available audit findings,
6 the projected impact of prospective rates, and other information
7 available to the department.

8 (3) The old contractor shall provide security, in a form deemed
9 adequate by the department, in the amount of determined and estimated
10 overpayments, whether or not the overpayments are the subject of good
11 faith dispute. Security shall consist of:

12 (a) Withheld payments due the contractor; or

13 (b) A surety bond issued by a bonding company acceptable to the
14 department; or

15 (c) An assignment of funds to the department; or

16 (d) Collateral acceptable to the department; or

17 (e) A purchaser's assumption of liability for the prior
18 contractor's overpayment; (~~(e)~~)

19 (f) A promissory note secured by a deed of trust; or

20 (g) Any combination of (a), (b), (c), (d), (~~(e)~~) (e), or (f) of
21 this subsection.

22 (4) A surety bond or assignment of funds shall:

23 (a) Be at least equal in amount to determined or estimated
24 overpayments, whether or not the subject of good faith dispute, minus
25 withheld payments;

26 (b) Be issued or accepted by a bonding company or financial
27 institution licensed to transact business in Washington state;

28 (c) Be for a term sufficient to ensure effectiveness after final
29 settlement and the exhaustion of administrative and judicial remedies:
30 PROVIDED, That the bond or assignment shall initially be for a term of
31 five years, and shall be forfeited if not renewed thereafter in an
32 amount equal to any remaining overpayment in dispute;

33 (d) Provide that the full amount of the bond or assignment, or
34 both, shall be paid to the department if a properly completed final
35 cost report is not filed in accordance with this chapter, or if
36 financial records supporting this report are not preserved and made
37 available to the auditor; and

38 (e) Provide that an amount equal to any recovery the department
39 determines is due from the contractor at settlement, but not exceeding

1 the amount of the bond and assignment, shall be paid to the department
2 if the contractor does not pay the refund within sixty days following
3 receipt of written demand or the conclusion of administrative or
4 judicial proceedings to contest settlement issues.

5 (5) The department shall release any payment withheld as security
6 if alternate security is provided under subsection (3) of this section
7 in an amount equivalent to determined and estimated overpayments.

8 (6) If the total of withheld payments, bonds, and assignments is
9 less than the total of determined and estimated overpayments, the
10 unsecured amount of such overpayments shall be a debt due the state and
11 shall become a lien against the real and personal property of the
12 contractor from the time of filing by the department with the county
13 auditor of the county where the contractor resides or owns property,
14 and the lien claim has preference over the claims of all unsecured
15 creditors.

16 (7) The contractor shall file a properly completed final cost
17 report in accordance with the requirements of this chapter, which shall
18 be audited by the department. A final settlement shall be determined
19 within ninety days following completion of the audit process, including
20 any administrative review of the audit requested by the contractor.

21 (8) Following determination of settlement for all periods, security
22 held pursuant to this section shall be released to the contractor after
23 overpayments determined in connection with final settlement have been
24 paid by the contractor. If the contractor contests the settlement
25 determination in accordance with RCW 74.46.170, the department shall
26 hold the security, not to exceed the amount of estimated unrecovered
27 overpayments being contested, pending completion of the administrative
28 appeal process.

29 (9) If, after calculation of settlements for any periods, it is
30 determined that overpayments exist in excess of the value of security
31 held by the state, the department may seek recovery of these additional
32 overpayments as provided by law.

33 ~~(10) ((If a contract is terminated solely in order for the same
34 owner to contract with the department to deliver services to another
35 classification of medical care recipients at the same facility, the
36 contractor is not required to submit final cost reports, and security
37 shall not be required))~~ Regardless of whether a contractor intends to
38 terminate its medicaid contract, if a facility's medicaid overpayment
39 liability for one or more settlement periods reaches, or exceeds a

1 total of fifty thousand dollars, as determined by preliminary
2 settlement or final settlement, or both, whether subject to a good
3 faith dispute or not, the department shall demand and obtain security
4 equivalent to such overpayment, and for each subsequent increase in
5 liability reaching or exceeding twenty-five thousand dollars. Such
6 security shall meet the criteria in subsections (3) and (4) of this
7 section, except that the department shall not accept an assumption of
8 liability. The department shall withhold all or portions of a
9 facility's current contract payments or impose liens, or both, as
10 authorized in subsection (6) of this section if security acceptable to
11 the department is not forthcoming. The department shall release a
12 facility's withheld payments or lift liens, or both, if the facility
13 subsequently provides security acceptable to the department. This
14 subsection shall apply to all overpayments determined by preliminary or
15 final settlements issued on or after July 1, 1995, regardless of what
16 reimbursement periods the settlements may cover.

17 NEW SECTION. Sec. 68. A new section is added to chapter 74.46 RCW
18 under the subchapter heading "Part D Allowable Costs" to read as
19 follows:

20 The July 1, 1995, rates shall be determined using allowable costs
21 reported for the period from January 1st through December 31st of the
22 preceding year, less a reduction of one and four-tenths percent to take
23 into account the impact on nursing facilities of regulatory reform
24 efforts including but not limited to reforms described in the
25 legislative budget committee report 95-9 (nursing home regulations).

26 NEW SECTION. Sec. 69. If any part of this act is found to be in
27 conflict with federal requirements that are a prescribed condition to
28 the allocation of federal funds to the state, the conflicting part of
29 this act is inoperative solely to the extent of the conflict and with
30 respect to the agencies directly affected, and this finding does not
31 affect the operation of the remainder of this act in its application to
32 the agencies concerned. The rules under this act shall meet federal
33 requirements that are a necessary condition to the receipt of federal
34 funds by the state.

35 NEW SECTION. Sec. 70. The department of social and health
36 services shall develop and pilot, for eighteen months, an on-line

1 computer based information system consistent with the information needs
2 outlined in section 3 of this act. The department shall, by December
3 1, 1996, report to the appropriations committee of the house of
4 representatives and the ways and means committee of the senate on the
5 success of the pilot in meeting the information requirements for
6 hospitals outlined in this section.

7 NEW SECTION. **Sec. 71.** If any provision of this act or its
8 application to any person or circumstance is held invalid, the
9 remainder of the act or the application of the provision to other
10 persons or circumstances is not affected.

11 NEW SECTION. **Sec. 72.** This act is necessary for the immediate
12 preservation of the public peace, health, or safety, or support of the
13 state government and its existing public institutions, and shall take
14 effect July 1, 1995.

--- END ---