

HOUSE BILL 1850

State of Washington 55th Legislature 1997 Regular Session
By Representatives Dyer, Backlund, Skinner, Talcott, Schoesler,
Mitchell and Cooke

Read first time 02/11/97. Referred to Committee on Health Care.

1 AN ACT Relating to the long-term care reorganization and standards
2 of care reform act; amending RCW 9A.42.010, 9A.42.050, 9A.42.020,
3 9A.42.030, 9A.44.010, 9A.44.050, 9A.44.100, 18.130.200, 43.43.842,
4 70.124.020, 70.124.030, 70.124.040, 70.124.070, 70.129.030, 70.129.110,
5 70.129.150, 43.190.030, 43.190.070, 74.39A.030, 74.39A.040, 74.39A.050,
6 74.39A.060, 74.39A.080, 43.20B.080, 74.34.010, 74.39A.170, 18.20.040,
7 70.128.175, and 43.17.020; reenacting and amending RCW 18.130.040,
8 18.130.040, and 43.17.010; adding a new section to chapter 9A.42 RCW;
9 adding a new section to chapter 70.124 RCW; adding new sections to
10 chapter 74.34 RCW; adding new sections to chapter 43.20B RCW; adding a
11 new section to chapter 41.06 RCW; adding a new chapter to Title 43 RCW;
12 adding a new chapter to Title 18 RCW; creating new sections; repealing
13 RCW 74.39.001, 74.39.005, 74.39.030, 74.39.040, 74.39A.005, 74.39A.007,
14 and 74.39A.008; prescribing penalties; providing an effective date;
15 providing expiration dates; and declaring an emergency.

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

17 PART I

18 CREATING THE DEPARTMENT OF LONG-TERM CARE SERVICES

1 NEW SECTION. **Sec. 101.** This act shall be known and may be cited
2 as the Clara act.

3 NEW SECTION. **Sec. 102.** FINDINGS AND INTENT. The legislature
4 finds and declares that the state's current fragmented categorical
5 system for administering services to persons with disabilities and the
6 elderly is not client and family-centered and has created significant
7 organizational barriers to providing high quality, safe, and effective
8 care and support. The present fragmented system results in
9 uncoordinated enforcement of regulations designed to protect the health
10 and safety of disabled persons, lacks accountability due to the absence
11 of management information systems' client tracking data, and
12 perpetuates difficulty in matching client needs and services to
13 multiple categorical funding sources.

14 The legislature further finds that Washington's chronically
15 functionally disabled population of all ages is growing at a rapid pace
16 due to a population of the very old and increased incidence of
17 disability due in large measure to technological improvements in acute
18 care causing people to live longer. If we are going to meet the
19 significant and growing long-term care needs into the near future,
20 rapid, fundamental changes must take place in the way we finance,
21 organize, and provide long-term care services to the chronically
22 functionally disabled.

23 The legislature further finds that the public demands that
24 long-term care services be safe, client and family-centered, and
25 designed to encourage individual dignity, autonomy, and development of
26 the fullest human potential at home or in other residential settings,
27 whenever practicable. To accomplish this, the legislature recognizes
28 the immediate need to administer long-term care services for persons
29 with functional disabilities through a separate, integrated, and
30 comprehensive long-term care department.

31 It is the intent of this chapter to establish a new department,
32 known as the department of long-term care services, which is mandated
33 to coordinate client-centered, long-term care services in a way that
34 increases safety, accountability, and quality, minimizes administrative
35 cost, eliminates unnecessarily complex administrative barriers,
36 minimizes program and service duplication, and maximizes the use of
37 financial resources in directly meeting the needs of persons of all
38 ages with chronic functional limitations.

1 NEW SECTION. **Sec. 103.** DEFINITIONS. Unless the context clearly
2 requires otherwise, the definitions in this section apply throughout
3 this chapter.

4 (1) "Adult family home" means a facility licensed under chapter
5 70.128 RCW.

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

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

12 (4) "Boarding home" means a facility licensed under chapter 18.20
13 RCW.

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

22 (6) "Department" means the department of long-term care services.

23 (7) "Enhanced adult residential care" means services provided by a
24 boarding home that is licensed under chapter 18.20 RCW and that has a
25 contract with the department under RCW 74.39A.010.

26 (8) "Functionally disabled person" is synonymous with chronic
27 functionally disabled and means a person who because of a recognized
28 chronic physical or mental condition or disease is impaired to the
29 extent of being dependent upon others for direct care, support,
30 supervision, or monitoring to perform activities of daily living.
31 "Activities of daily living", in this context, means self-care
32 abilities related to personal care such as bathing, eating, using the
33 toilet, dressing, and transfer. Instrumental activities of daily
34 living may also be used to assess a person's functional abilities as
35 they are related to the mental capacity to perform activities in the
36 home and the community such as cooking, shopping, house cleaning, doing
37 laundry, working, and managing personal finances.

38 (9) "Home and community services" means adult family homes, group
39 homes, intensive tenant support, boarding homes, in-home services, and

1 other services administered by the department directly or through
2 contract with area agencies on aging or similar services provided by
3 facilities and agencies licensed by the department.

4 (10) "Long-term care" is synonymous with chronic care and means
5 care and supports delivered indefinitely, intermittently, or over a
6 sustained time to persons of any age disabled by chronic mental or
7 physical illness, disease, or a medical condition that is permanent,
8 not reversible or curable, or is long-lasting and severely limits their
9 mental or physical capacity for self-care. The use of this definition
10 is not intended to expand the scope of services, care, or assistance by
11 any individuals, groups, residential care settings, or professions
12 unless otherwise expressed by law.

13 (11) "Nursing home" means a facility licensed under chapter 18.51
14 RCW.

15 (12) "Secretary" means the secretary of long-term care services.

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

19 NEW SECTION. **Sec. 104.** DEPARTMENT OF LONG-TERM CARE SERVICES.
20 There is created a department of state government to be known as the
21 department of long-term care services. The department is vested with
22 all powers and duties transferred to it under this chapter and such
23 other powers and duties as may be authorized by law. The main
24 administrative office of the department must be located in the city of
25 Olympia. The secretary may establish administrative facilities in
26 other locations, if deemed necessary for the efficient operation of the
27 department, and if consistent with the principles set forth in section
28 107 of this act.

29 NEW SECTION. **Sec. 105.** DUTIES AND RESPONSIBILITIES. The
30 department has, but is not limited to, the following duties and
31 responsibilities:

32 (1) Provide long-term care services to functionally disabled
33 persons within available funding, in the most safe, cost-effective, and
34 appropriate residential environment consistent with the person's
35 measurable needs, exceptional or special care needs, and individual
36 preferences;

1 (2) Establish and implement a consistent definition of appropriate
2 and integrated roles and responsibilities for state and local
3 government, regional organizations, provider groups, families, and
4 private volunteers in the planning, administration, financing, and
5 delivery of long-term care services;

6 (3) Continually develop, implement, and monitor safety and quality
7 standards for all levels of care and assistance;

8 (4) Provide, to the extent funding is available, accessible and
9 affordable technical assistance that will enable persons who are
10 disabled, their families, and local communities to have greater
11 participation and control in the planning, administration, and
12 provision of long-term care services;

13 (5) Promote the active and meaningful involvement of families,
14 volunteers, and advocacy groups throughout all levels of care;

15 (6) Promote the development of a coordinated education and training
16 system for long-term care that is relevant to the needs of the client,
17 and includes special care needs resulting from Alzheimer and other
18 dementia disorders, Parkinson's, Huntington's, chemical addiction,
19 multiple sclerosis, developmental disabilities, spinal cord injuries,
20 traumatic head injury, and incontinence. It should be accessible and
21 affordable for all providers and designed to improve client safety and
22 the highest quality of services in accordance with the intent of this
23 chapter and recommendations provided by the stakeholder committee
24 established in section 114 of this act. In an effort to improve access
25 to training and education, especially for rural communities, and reduce
26 costs, the coordinated system of long-term care education should
27 include the use of distance learning using satellite technology
28 coordinated through community colleges or other entities, as defined by
29 the department, and the development and use of other innovative types
30 of learning strategies;

31 (7) Promote options for seeking and obtaining public and private
32 alternative funding for long-term care services, such as federal
33 waivers and demonstration projects that will allow for the most
34 effective use of federal medicaid and medicare funding, long-term care
35 insurance options as part of overall health care insurance benefits,
36 innovative social health maintenance organization models or other
37 managed care models that are designed to encourage economic
38 efficiencies and better coordinate care between acute and chronic long-
39 term care, and a uniform fee copayment scale collected by the

1 department for client participation in state-funded, long-term care
2 programs for the elderly, which does not include clients of the
3 subdivisions of developmental disabilities and mental health; and

4 (8) Consider other issues deemed appropriate by the governor,
5 legislature, secretary, or the committee established in section 114 of
6 this act that are consistent with the objectives set forth in this
7 chapter and allocated in the budget.

8 NEW SECTION. **Sec. 106.** APPOINTMENT OF SECRETARY. The executive
9 head and appointing authority of the department is the secretary. The
10 secretary shall be appointed by the governor, with the consent of the
11 senate, and shall serve at the pleasure of the governor. The secretary
12 shall be paid a salary to be fixed by the governor in accordance with
13 RCW 43.03.040.

14 NEW SECTION. **Sec. 107.** GUIDING PRINCIPLES. The department shall
15 provide leadership and coordination in identifying and resolving
16 barriers to receiving safe, client and family-centered, long-term care
17 services in accordance with the following principles:

18 (1) Clear lines of balanced authority and coordination that avoid
19 duplications and fragmentation within and between subelements of the
20 department for service delivery, financing, and quality assurance;

21 (2) A simplified organizational design promoting accessibility,
22 responsiveness, and accountability to persons receiving services and
23 their families, the legislature, and the general public;

24 (3) A coordinated organizational structure for managing the
25 department's programs and activities that is client-centered and
26 encourages consistent joint working agreements with and between all
27 long-term care programs;

28 (4) Decentralized authority and responsibility, with clear
29 accountability;

30 (5) Effective strategies for implementing and enforcing long-term
31 care quality standards and educational and training standards;

32 (6) Expert advice and information on chronic long-term care issues
33 to families, providers, and the executive and legislative branches of
34 state government;

35 (7) Uniform, active, and fair enforcement of rules;

36 (8) Effective coordination, cooperation, and innovation by
37 facilitating the meaningful participation of persons with functional

1 disabilities and their families, employees, vendors, elements of the
2 civil society, community advocates, and other federal, state, and local
3 governmental agencies in the planning, development, and implementation
4 of programs and services consistent with the intent of this chapter;

5 (9) A fair and realistic system for measuring both short-range and
6 long-range progress; and

7 (10) Continually striving to simplify, reduce, or eliminate
8 unnecessary rules, procedures, and burdensome paperwork that prove to
9 be barriers to providing effective coordination or high quality direct
10 services.

11 NEW SECTION. **Sec. 108.** RULES REVIEW. In accordance with the
12 administrative procedure act, chapter 34.05 RCW, the department shall
13 ensure an opportunity for consultation, review, and comment by the
14 department's clients and their families and other interested members of
15 the public before the adoption of standards, guidelines, and rules.

16 NEW SECTION. **Sec. 109.** AUTHORITY OF THE SECRETARY. Consistent
17 with the principles set forth in section 107 of this act, the secretary
18 may create such administrative divisions, offices, bureaus, and
19 programs within the department as necessary. The secretary has
20 complete charge of, and supervisory powers over, the department, except
21 where the secretary's authority is specifically limited by law.

22 NEW SECTION. **Sec. 110.** PERSONNEL. (1) The secretary shall
23 appoint such personnel as are necessary to carry out the duties of the
24 department in accordance with chapter 41.06 RCW.

25 (2) The secretary shall appoint the deputy secretaries, assistant
26 secretaries, and other administrative positions as necessary and
27 consistent with the principles set forth in this chapter. All persons
28 who administer the necessary divisions, offices, bureaus, and programs
29 and no more than five additional employees are exempt from the
30 provisions of chapter 41.06 RCW. The officers and employees appointed
31 under this section shall be paid salaries to be fixed by the governor
32 in accordance with the procedure established by law for the fixing of
33 salaries for officers exempt from the state civil service law.

34 NEW SECTION. **Sec. 111.** DELEGATION OF AUTHORITY. Any power or
35 duty vested in or transferred to the secretary by law or executive

1 order may be delegated by the secretary to the deputy secretary or to
2 any other assistant or subordinate; but the secretary shall be
3 responsible for the official acts of the officers and employees of the
4 department.

5 NEW SECTION. **Sec. 112.** APPOINTMENT OF ADVISORY COMMITTEES OR
6 COUNCILS BY THE SECRETARY. The secretary shall appoint advisory
7 committees as required for receipt of federal funds by the department.
8 The secretary may also appoint advisory committees, as deemed
9 necessary, on subject matters within the department's responsibilities.
10 The committees must have balanced representation of clients, private
11 and public providers, and public employees.

12 Members of such state advisory committees may be paid their travel
13 expenses in accordance with RCW 43.03.050 and 43.03.060.

14 NEW SECTION. **Sec. 113.** DEPARTMENT JURISDICTION IN RELATION TO
15 FEDERAL LAW. In furtherance of the policy of the state to cooperate
16 with the federal government in all of the programs under the
17 jurisdiction of the department, such rules as may become necessary to
18 entitle the state to participate in federal funds may be adopted,
19 unless expressly prohibited by law. Any internal reorganization
20 carried out under the terms of this chapter shall meet federal
21 requirements that are a necessary condition to state receipt of federal
22 funds. Any section or provision of law dealing with the department
23 that may be susceptible to more than one construction shall be
24 interpreted in favor of the construction most likely to comply with
25 federal laws entitling this state to receive federal funds for the
26 various programs of the department. If any law dealing with the
27 department is ruled to be in conflict with federal requirements that
28 are a prescribed condition of the allocation of federal funds to the
29 state, or to any departments or agencies thereof, the conflicting part
30 is declared to be inoperative solely to the extent of the conflict.

31 NEW SECTION. **Sec. 114.** DEPARTMENTAL COMMITTEE ON LONG-TERM CARE
32 REORGANIZATION. A departmental committee on long-term care
33 reorganization, hereafter referred to in this section as the committee,
34 shall be appointed by the secretary of social and health services as
35 soon as practical, but not later than July 1, 1997.

1 The committee shall be composed of high-ranking administrators of
2 departmental programs that are being transferred to the department of
3 long-term care to be selected by the secretary and a related direct
4 service employee, who shall be nominated to the secretary by the
5 appropriate employee organizations. The secretary of social and health
6 services shall be the chair of the committee; however, effective July
7 1, 1998, the secretary of long-term care shall assume all
8 responsibilities of the secretary of social and health services as set
9 forth in this section.

10 The committee shall establish technical advisory panels composed of
11 balanced representation of all types of persons served by the
12 department of long-term care and consistent with section 112 of this
13 act to provide expert technical assistance on matters necessary to
14 implement this act.

15 The committee has the following duties:

16 (1) Ensure that all appropriate interests participate in the
17 departmental reorganization activities;

18 (2) Oversee the development, revision, implementation, and
19 enforcement of all quality assurance measures;

20 (3) Report the following to the appropriate committees of the
21 legislature, no later than December 1, 1997:

22 (a) Methods of cost-efficiencies that can be used to reallocate
23 funds to unmet needs in direct services;

24 (b) List all nonmeans tested programs and activities funded by the
25 federal older Americans act and state funded senior citizens act or
26 other such state funded programs and recommend how to integrate such
27 services into the new department to conform with the intent of chapter
28 . . . , Laws of 1997 (this act);

29 (c) Methods to establish a single point of entry for service
30 eligibility and delivery for functionally disabled persons;

31 (d) An analysis of the desirability and feasibility of establishing
32 a voucher-type, cash and counsel pilot project;

33 (e) Recommendations to establish a long-term care ombudsman program
34 that will cover all persons who are functionally disabled;

35 (f) Necessary modifications of the case management system and
36 management information systems to fully implement chapter . . . , Laws
37 of 1997 (this act);

38 (g) Federal waivers necessary to implement chapter . . . , Laws of
39 1997 (this act); and

1 (h) Draft legislation necessary to implement changes proposed by
2 the committee;

3 (4) The department shall make the committee recommendations
4 available to the public in a timely manner and report quarterly to the
5 joint legislative committee on long-term care oversight established in
6 section 115 of this act.

7 This section expires March 1, 2001.

8 NEW SECTION. **Sec. 115.** JOINT LEGISLATIVE COMMITTEE ON LONG-TERM
9 CARE OVERSIGHT. (1) There is created a joint legislative committee on
10 long-term care oversight. The committee shall consist of: (a) Three
11 members of the senate appointed by the president of the senate, two of
12 whom shall be members of the majority party and one of whom shall be a
13 member of the minority party; and (b) three members of the house of
14 representatives, two of whom shall be members of the majority party and
15 one of whom shall be a member of the minority party.

16 (2) The committee shall elect a chair and vice-chair. The chair
17 shall be a member of the senate in even-numbered years and a member of
18 the house of representatives in odd-numbered years. The vice-chair
19 shall be a member of the senate in odd-numbered years and a member of
20 the house of representatives in even-numbered years.

21 (3) The committee shall:

22 (a) Review all reorganization and reform activities necessary to
23 implement chapter . . . , Laws of 1997 (this act);

24 (b) Review all quality standards developed, revised, and enforced
25 by the department;

26 (c) Initiate or review studies relevant to the issues of
27 administration, delivery, and quality of long-term care services;

28 (d) Review all rules proposed by the department to ensure
29 consistency with the intent, guiding principles, and duties and
30 responsibilities of the department;

31 (e) Report to the legislature the progress on reorganization and
32 reform consistent with chapter . . . , Laws of 1997 (this act); and

33 (f) Act upon the recommendations of the reorganization and
34 oversight stakeholders committee.

35 (4) This section expires March 1, 2001.

1 PART II
2 FUNCTIONS TRANSFERRED FROM DEPARTMENT OF SOCIAL AND
3 HEALTH SERVICES AND DEPARTMENT OF HEALTH

4 NEW SECTION. Sec. 201. (1) The powers and duties of the
5 department of social and health services, the secretary of social and
6 health services, the department of health, and the secretary of health
7 under the following statutes, programs, and services, and related
8 management and support services, presently administered by the
9 department of social and health services or the department of health
10 are hereby transferred to the department of long-term care services:

11 Title 71 RCW - Mental illness programs;

12 Title 71A RCW - Developmental disabilities;

13 Chapter 72.06 RCW - Mental health;

14 Chapter 72.23 RCW - Public and private facilities for mentally ill;

15 Chapter 72.25 RCW - Nonresident mentally ill, sexual psychopaths,
16 and psychopathic delinquents--Deportation transportation;

17 Chapter 72.27 RCW - Interstate compact on mental health;

18 Chapter 72.29 RCW - Multi-use facilities for the mentally or
19 physically handicapped or the mentally ill;

20 Chapter 70.10 RCW - Comprehensive community health centers;

21 Chapter 70.82 RCW - Cerebral palsy program;

22 Chapter 70.124 RCW - Abuse of patients--Nursing homes, state
23 hospitals;

24 Chapter 70.128 RCW - Adult family homes;

25 Chapter 70.129 RCW - Long-term care resident rights;

26 Chapter 74.26 RCW - Services for children with multiple handicaps;

27 Chapter 74.34 RCW - Abuse of vulnerable adults;

28 Chapter 74.36 RCW - Funding for community programs for the aging;

29 Chapter 74.39 RCW - Long-term care service options;

30 Chapter 74.41 RCW - Respite care services;

31 Chapter 74.42 RCW - Nursing homes--Resident care, operating
32 standards;

33 Chapter 74.46 RCW - Nursing home auditing and cost reimbursement
34 act of 1980;

35 Chapter 74.39A RCW - Long-term care services options--Expansion;

36 Chapter 18.20 RCW - Boarding homes;

37 Chapter 18.48 RCW - Adult family homes; and

38 Chapter 18.51 RCW - Nursing homes.

1 All references to the secretary of social and health services, the
2 secretary of health, the department of social and health services, or
3 the department of health in the Revised Code of Washington shall be
4 construed to mean the secretary of long-term care services or the
5 department of long-term care services when referring to the functions
6 transferred in this section.

7 (2)(a) All reports, documents, surveys, books, records, files,
8 papers, or written material in the possession of the department of
9 social and health services or the department of health pertaining to
10 the powers, functions, and duties transferred shall be delivered to the
11 custody of the department of long-term care services. All cabinets,
12 furniture, office equipment, motor vehicles, and other tangible
13 property employed by the department of social and health services or
14 the department of health in carrying out the powers, functions, and
15 duties transferred shall be made available to the department of long-
16 term care services. All funds, credits, or other assets held in
17 connection with the powers, functions, and duties transferred shall be
18 assigned to the department of long-term care services.

19 (b) Any appropriations made to the department of social and health
20 services or the department of health for carrying out the powers,
21 functions, and duties transferred shall, on the effective date of this
22 section, be transferred and credited to the department of long-term
23 care services.

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

30 (3) All employees of the department of social and health services
31 or the department of health engaged in performing the powers,
32 functions, and duties transferred are transferred to the jurisdiction
33 of the department of long-term care services. All employees classified
34 under chapter 41.06 RCW, the state civil service law, are assigned to
35 the department of long-term care services to perform their usual duties
36 upon the same terms as formerly, without any loss of rights, subject to
37 any action that may be appropriate thereafter in accordance with the
38 laws and rules governing state civil service.

1 (4) All rules and all pending business before the department of
2 social and health services or the department of health pertaining to
3 the powers, functions, and duties transferred shall be continued and
4 acted upon by the department of long-term care services. All existing
5 contracts and obligations shall remain in full force and shall be
6 performed by the department of long-term care services.

7 (5) The transfer of the powers, duties, functions, and personnel of
8 the department of social and health services or the department of
9 health shall not affect the validity of any act performed before the
10 effective date of this section.

11 (6) If apportionments of budgeted funds are required because of the
12 transfers directed by this section, the director of financial
13 management shall certify the apportionments to the agencies affected,
14 the state auditor, and the state treasurer. Each of these shall make
15 the appropriate transfer and adjustments in funds and appropriation
16 accounts and equipment records in accordance with the certification.

17 (7) Nothing contained in this section may be construed to alter any
18 existing collective bargaining unit or the provisions of any existing
19 collective bargaining agreement until the agreement has expired or
20 until the bargaining unit has been modified by action of the personnel
21 board as provided by law.

22 PART III

23 QUALITY STANDARDS AND COMPLAINT ENFORCEMENT

24 **Sec. 301.** RCW 9A.42.010 and 1996 c 302 s 1 are each amended to
25 read as follows:

26 As used in this chapter:

27 (1) "Basic necessities of life" means food, water, shelter,
28 clothing, and health care, including but not limited to health-related
29 treatment or activities, hygiene, oxygen, and medication, but does not
30 include the withholding or withdrawal of life-support treatment
31 authorized by a terminally ill patient pursuant to law.

32 (2)(a) "Bodily injury" means physical pain or injury, illness, or
33 an impairment of physical condition;

34 (b) "Substantial bodily harm" means bodily injury which involves a
35 temporary but substantial disfigurement, or which causes a temporary
36 but substantial loss or impairment of the function of any bodily part
37 or organ, or which causes a fracture of any bodily part;

1 (c) "Great bodily harm" means bodily injury which creates a high
2 probability of death, or which causes serious permanent disfigurement,
3 or which causes a permanent or protracted loss or impairment of the
4 function of any bodily part or organ.

5 (3) "Child" means a person under eighteen years of age.

6 (4) "Dependent person" means a person who, because of physical or
7 mental disability, or because of extreme advanced age, is dependent
8 upon another person to provide the basic necessities of life. A frail
9 elder or vulnerable adult is presumed to be a dependent person for
10 purposes of this chapter and includes any person admitted to any long-
11 term care facility that is licensed or is required to be licensed under
12 chapter 18.20, 18.51, 72.36, or 70.128 RCW and any person who is
13 receiving services from home health, hospice, or home care agencies
14 licensed or required to be licensed under chapter 70.127 RCW.

15 (5) "Employed" means hired by a dependent person, another person
16 acting on behalf of a dependent person, or by an organization or
17 governmental entity, to provide to a dependent person any of the basic
18 necessities of life. A person may be "employed" regardless of whether
19 the person is paid for the services or, if paid, regardless of who pays
20 for the person's services.

21 (6) "Parent" has its ordinary meaning and also includes a guardian
22 and the authorized agent of a parent or guardian.

23 (7) "Abandons" means leaving a child or other dependent person
24 without the means or ability to obtain one or more of the basic
25 necessities of life.

26 **Sec. 302.** RCW 9A.42.050 and 1986 c 250 s 5 are each amended to
27 read as follows:

28 In any prosecution for criminal mistreatment, it shall be a defense
29 that the withholding of the basic necessities of life is due to
30 financial inability only if the person charged has made a reasonable
31 effort to obtain adequate assistance. This defense is not available to
32 persons in the business of providing care who have been paid for the
33 delivery of such care.

34 **Sec. 303.** RCW 9A.42.020 and 1986 c 250 s 2 are each amended to
35 read as follows:

36 (1) A parent of a child ((~~or~~)), the person entrusted with the
37 physical custody of a child or dependent person, or a person employed

1 to provide to the child or dependent person the basic necessities of
2 life is guilty of criminal mistreatment in the first degree if he or
3 she recklessly causes great bodily harm to a child or dependent person
4 by withholding any of the basic necessities of life.

5 (2) Criminal mistreatment in the first degree is a class B felony.

6 **Sec. 304.** RCW 9A.42.030 and 1986 c 250 s 3 are each amended to
7 read as follows:

8 (1) A parent of a child ((~~or~~)), the person entrusted with the
9 physical custody of a child or dependent person, or a person employed
10 to provide to the child or dependent person the basic necessities of
11 life is guilty of criminal mistreatment in the second degree if he or
12 she recklessly either (a) creates an imminent and substantial risk of
13 death or great bodily harm, or (b) causes substantial bodily harm by
14 withholding any of the basic necessities of life.

15 (2) Criminal mistreatment in the second degree is a class C felony.

16 NEW SECTION. **Sec. 305.** A new section is added to chapter 9A.42
17 RCW to read as follows:

18 (1) A person is guilty of the crime of criminal mistreatment in the
19 third degree if the person is the parent of a child, is a person
20 entrusted with the physical custody of a child or other dependent
21 person, or is a person employed to provide to the child or dependent
22 person the basic necessities of life, and either:

23 (a) With criminal negligence the person creates an imminent and
24 substantial risk of bodily injury to a child or dependent person by
25 withholding any of the basic necessities of life; or

26 (b) With criminal negligence the person causes bodily injury to a
27 child or dependent person by withholding any of the basic necessities
28 of life.

29 (2) Criminal mistreatment in the third degree is a gross
30 misdemeanor.

31 **Sec. 306.** RCW 9A.44.010 and 1994 c 271 s 302 are each amended to
32 read as follows:

33 As used in this chapter:

34 (1) "Sexual intercourse" (a) has its ordinary meaning and occurs
35 upon any penetration, however slight, and

1 (b) Also means any penetration of the vagina or anus however
2 slight, by an object, when committed on one person by another, whether
3 such persons are of the same or opposite sex, except when such
4 penetration is accomplished for medically recognized treatment or
5 diagnostic purposes, and

6 (c) Also means any act of sexual contact between persons involving
7 the sex organs of one person and the mouth or anus of another whether
8 such persons are of the same or opposite sex.

9 (2) "Sexual contact" means any touching of the sexual or other
10 intimate parts of a person done for the purpose of gratifying sexual
11 desire of either party or a third party.

12 (3) "Married" means one who is legally married to another, but does
13 not include a person who is living separate and apart from his or her
14 spouse and who has filed in an appropriate court for legal separation
15 or for dissolution of his or her marriage.

16 (4) "Mental incapacity" is that condition existing at the time of
17 the offense which prevents a person from understanding the nature or
18 consequences of the act of sexual intercourse whether that condition is
19 produced by illness, defect, the influence of a substance or from some
20 other cause.

21 (5) "Physically helpless" means a person who is unconscious or for
22 any other reason is physically unable to communicate unwillingness to
23 an act.

24 (6) "Forcible compulsion" means physical force which overcomes
25 resistance, or a threat, express or implied, that places a person in
26 fear of death or physical injury to herself or himself or another
27 person, or in fear that she or he or another person will be kidnapped.

28 (7) "Consent" means that at the time of the act of sexual
29 intercourse or sexual contact there are actual words or conduct
30 indicating freely given agreement to have sexual intercourse or sexual
31 contact.

32 (8) "Significant relationship" means a situation in which the
33 perpetrator is:

34 (a) A person who undertakes the responsibility, professionally or
35 voluntarily, to provide education, health, welfare, or organized
36 recreational activities principally for minors; ~~((or))~~

37 (b) A person who in the course of his or her employment supervises
38 minors; or

1 (c) A person who professionally or voluntarily provides welfare,
2 health or residential assistance, personal care, or organized
3 recreational activities to frail elders or vulnerable adults, including
4 a provider, employee, temporary employee, volunteer, or independent
5 contractor who supplies services to long-term care facilities licensed
6 or required to be licensed under chapter 18.20, 18.51, 72.36, or 70.128
7 RCW, and home health, hospice, or home care agencies licensed or
8 required to be licensed under chapter 70.127 RCW.

9 (9) "Abuse of a supervisory position" means a direct or indirect
10 threat or promise to use authority to the detriment or benefit of a
11 minor.

12 (10) "Developmentally disabled," for purposes of RCW
13 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a
14 developmental disability as defined in RCW 71A.10.020.

15 (11) "Person with supervisory authority," for purposes of RCW
16 9A.44.050(1) (c) or (e) and 9A.44.100(1) (c) or (e), means any
17 proprietor or employee of any public or private care or treatment
18 facility who directly supervises developmentally disabled, mentally
19 disordered, or chemically dependent persons at the facility.

20 (12) "Mentally disordered person" for the purposes of RCW
21 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "mental
22 disorder" as defined in RCW 71.05.020(2).

23 (13) "Chemically dependent person" for purposes of RCW
24 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person who is "chemically
25 dependent" as defined in RCW 70.96A.020(4).

26 (14) "Health care provider" for purposes of RCW 9A.44.050 and
27 9A.44.100 means a person who is, holds himself or herself out to be, or
28 provides services as if he or she were: (a) A member of a health care
29 profession under chapter 18.130 RCW; or (b) registered or certified
30 under chapter 18.19 RCW, regardless of whether the health care provider
31 is licensed, certified, or registered by the state.

32 (15) "Treatment" for purposes of RCW 9A.44.050 and 9A.44.100 means
33 the active delivery of professional services by a health care provider
34 which the health care provider holds himself or herself out to be
35 qualified to provide.

36 (16) "Frail elder or vulnerable adult" means a person sixty years
37 of age or older who has the functional, mental, or physical inability
38 to care for himself or herself. "Frail elder or vulnerable adult" also
39 includes a person found incapacitated under chapter 11.88 RCW, a person

1 over eighteen years of age who has a developmental disability under
2 chapter 71A.10 RCW, a person admitted to a long-term care facility that
3 is licensed or required to be licensed under chapter 18.20, 18.51,
4 72.36, or 70.128 RCW, and a person receiving services from a home
5 health, hospice, or home care agency licensed or required to be
6 licensed under chapter 70.127 RCW.

7 **Sec. 307.** RCW 9A.44.050 and 1993 c 477 s 2 are each amended to
8 read as follows:

9 (1) A person is guilty of rape in the second degree when, under
10 circumstances not constituting rape in the first degree, the person
11 engages in sexual intercourse with another person:

12 (a) By forcible compulsion;

13 (b) When the victim is incapable of consent by reason of being
14 physically helpless or mentally incapacitated;

15 (c) When the victim is developmentally disabled and the perpetrator
16 is a person who is not married to the victim and who has supervisory
17 authority over the victim;

18 (d) When the perpetrator is a health care provider, the victim is
19 a client or patient, and the sexual intercourse occurs during a
20 treatment session, consultation, interview, or examination. It is an
21 affirmative defense that the defendant must prove by a preponderance of
22 the evidence that the client or patient consented to the sexual
23 intercourse with the knowledge that the sexual intercourse was not for
24 the purpose of treatment; ((or))

25 (e) When the victim is a resident of a facility for mentally
26 disordered or chemically dependent persons and the perpetrator is a
27 person who is not married to the victim and has supervisory authority
28 over the victim; or

29 (f) When the victim is a frail elder or vulnerable adult and the
30 perpetrator is a person who is not married to the victim and who has a
31 significant relationship with the victim.

32 (2) Rape in the second degree is a class A felony.

33 **Sec. 308.** RCW 9A.44.100 and 1993 c 477 s 3 are each amended to
34 read as follows:

35 (1) A person is guilty of indecent liberties when he knowingly
36 causes another person who is not his spouse to have sexual contact with
37 him or another:

1 (a) By forcible compulsion; ~~((or))~~

2 (b) When the other person is incapable of consent by reason of
3 being mentally defective, mentally incapacitated, or physically
4 helpless;

5 (c) When the victim is developmentally disabled and the perpetrator
6 is a person who is not married to the victim and who has supervisory
7 authority over the victim;

8 (d) When the perpetrator is a health care provider, the victim is
9 a client or patient, and the sexual contact occurs during a treatment
10 session, consultation, interview, or examination. It is an affirmative
11 defense that the defendant must prove by a preponderance of the
12 evidence that the client or patient consented to the sexual contact
13 with the knowledge that the sexual contact was not for the purpose of
14 treatment; ~~((or))~~

15 (e) When the victim is a resident of a facility for mentally
16 disordered or chemically dependent persons and the perpetrator is a
17 person who is not married to the victim and has supervisory authority
18 over the victim; or

19 (f) When the victim is a frail elder or vulnerable adult and the
20 perpetrator is a person who is not married to the victim and who has a
21 significant relationship with the victim.

22 (2) Indecent liberties is a class B felony.

23 **Sec. 309.** RCW 18.130.040 and 1996 c 200 s 32 and 1996 c 81 s 5 are
24 each reenacted and amended to read as follows:

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

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

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

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

34 (iii) Midwives licensed under chapter 18.50 RCW;

35 (iv) Ocularists licensed under chapter 18.55 RCW;

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

38 (vi) Dental hygienists licensed under chapter 18.29 RCW;

1 (vii) Acupuncturists licensed under chapter 18.06 RCW;
2 (viii) Radiologic technologists certified and X-ray technicians
3 registered under chapter 18.84 RCW;
4 (ix) Respiratory care practitioners certified under chapter 18.89
5 RCW;
6 (x) Persons registered or certified under chapter 18.19 RCW;
7 (xi) Persons registered as nursing pool operators under chapter
8 18.52C RCW;
9 (xii) Nursing assistants registered or certified under chapter
10 ((~~18.79~~)) 18.88A RCW;
11 (xiii) Health care assistants certified under chapter 18.135 RCW;
12 (xiv) Dietitians and nutritionists certified under chapter 18.138
13 RCW;
14 (xv) Sex offender treatment providers certified under chapter
15 18.155 RCW;
16 (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW
17 18.71.205;
18 (xvii) Persons registered as adult family home providers and
19 resident managers under RCW 18.48.020; and
20 (xviii) Denturists licensed under chapter 18.30 RCW.
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 of hearing and speech as established in chapter
30 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; and

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 (4) All disciplining authorities shall adopt procedures to ensure
23 substantially consistent application of this chapter, the Uniform
24 Disciplinary Act, among the disciplining authorities listed in
25 subsection (2) of this section.

26 **Sec. 310.** RCW 18.130.200 and 1986 c 259 s 12 are each amended to
27 read as follows:

28 A person who attempts to obtain ~~((or))~~, obtains, or attempts to
29 maintain a license by willful misrepresentation or fraudulent
30 representation is guilty of a gross misdemeanor.

31 **Sec. 311.** RCW 43.43.842 and 1992 c 104 s 1 are each amended to
32 read as follows:

33 (1)(a) The secretary of social and health services, the secretary
34 of long-term care services, and the secretary of health shall adopt
35 additional requirements for the licensure or relicensure of agencies
36 ~~((or))~~, facilities ((which)), and licensed individuals who provide care
37 and treatment to vulnerable adults. These additional requirements

1 shall ensure that any person associated with a licensed agency or
2 facility having direct contact with a vulnerable adult shall not have
3 been: ~~((a))~~ (i) Convicted of a crime against persons as defined in
4 RCW 43.43.830, except as provided in this section; ~~((b))~~ (ii)
5 convicted of crimes relating to financial exploitation as defined in
6 RCW 43.43.830, except as provided in this section; ~~((c))~~ (iii) found
7 in any disciplinary board final decision to have abused a vulnerable
8 adult under RCW 43.43.830; or ~~((d))~~ (iv) the subject in a protective
9 proceeding under chapter 74.34 RCW.

10 (b) A person associated with a licensed agency or facility who has
11 direct contact with a vulnerable adult shall make the disclosures
12 specified in RCW 43.43.834(2). The person shall make the disclosures
13 in writing, sign, and swear to the contents under penalty of perjury.
14 The person shall, in the disclosures, specify all crimes against
15 children or other persons, and all crimes relating to financial
16 exploitation as defined in RCW 43.43.830, committed by the person.

17 (2) The rules adopted under this section shall permit the licensee
18 to consider the criminal history of an applicant for employment in a
19 licensed facility when the applicant has one or more convictions for a
20 past offense and:

21 (a) The offense was simple assault, assault in the fourth degree,
22 or the same offense as it may be renamed, and three or more years have
23 passed between the most recent conviction and the date of application
24 for employment;

25 (b) The offense was prostitution, or the same offense as it may be
26 renamed, and three or more years have passed between the most recent
27 conviction and the date of application for employment;

28 (c) The offense was theft in the third degree, or the same offense
29 as it may be renamed, and three or more years have passed between the
30 most recent conviction and the date of application for employment;

31 (d) The offense was theft in the second degree, or the same offense
32 as it may be renamed, and five or more years have passed between the
33 most recent conviction and the date of application for employment;

34 (e) The offense was forgery, or the same offense as it may be
35 renamed, and five or more years have passed between the most recent
36 conviction and the date of application for employment.

37 The offenses set forth in (a) through (e) of this subsection do not
38 automatically disqualify an applicant from employment by a licensee.

1 Nothing in this section may be construed to require the employment of
2 any person against a licensee's judgment.

3 In consultation with law enforcement personnel, the secretary of
4 social and health services and the secretary of health shall
5 investigate the conviction record and the protection proceeding record
6 information under this chapter ((43.43 RCW)) of each agency or facility
7 and its staff under their respective jurisdictions seeking licensure or
8 relicensure. The individual responding to criminal background inquiry
9 requests by the individual's employer or potential employer shall
10 disclose the information about the individual's criminal history under
11 penalty of perjury. The secretaries shall use the information solely
12 for the purpose of determining eligibility for licensure or
13 relicensure. Criminal justice agencies shall provide the secretaries
14 such information as they may have and that the secretaries may require
15 for such purpose.

16 **Sec. 312.** RCW 70.124.020 and 1996 c 178 s 24 are each amended to
17 read as follows:

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

20 (1) "Court" means the superior court of the state of Washington.

21 (2) "Law enforcement agency" means the police department, the
22 director of public safety, or the office of the sheriff.

23 (3) "Practitioner of the healing arts" or "practitioner" means a
24 person licensed by this state to practice podiatric medicine and
25 surgery, optometry, pharmacy, physical therapy, chiropractic, nursing,
26 dentistry, osteopathic medicine and surgery, or medicine and surgery.
27 The term "practitioner" shall include a nurses aide, a nursing home
28 administrator licensed under chapter 18.52 RCW, and a duly accredited
29 Christian Science practitioner: PROVIDED, HOWEVER, That a nursing home
30 patient who is being furnished Christian Science treatment by a duly
31 accredited Christian Science practitioner shall not be considered, for
32 that reason alone, a neglected patient for the purposes of this
33 chapter.

34 (4) "Department" means the state department of ((social and
35 health)) long-term care services.

36 (5) "Nursing home" has the meaning prescribed by RCW 18.51.010.

37 (6) "Social worker" means anyone engaged in a professional capacity
38 during the regular course of employment in encouraging or promoting the

1 health, welfare, support, or education of nursing home patients, or
2 providing social services to nursing home patients, whether in an
3 individual capacity or as an employee or agent of any public or private
4 organization or institution.

5 (7) "Psychologist" means any person licensed to practice psychology
6 under chapter 18.83 RCW, whether acting in an individual capacity or as
7 an employee or agent of any public or private organization or
8 institution.

9 (8) "Pharmacist" means any registered pharmacist under chapter
10 18.64 RCW, whether acting in an individual capacity or as an employee
11 or agent of any public or private organization or institution.

12 (9) "Abuse or neglect" or "patient abuse or neglect" means the
13 nonaccidental physical injury or condition, sexual abuse, or negligent
14 treatment of a nursing home, adult family home, boarding home, or state
15 hospital patient under circumstances which indicate that the patient's
16 health, welfare, ((and)) or safety is harmed thereby.

17 (10) "Negligent treatment" means an act or omission which evinces
18 a serious disregard of consequences of such magnitude as to constitute
19 a clear and present danger to the patient's health, welfare, ((and)) or
20 safety.

21 (11) "State hospital" means any hospital operated and maintained by
22 the state for the care of the mentally ill under chapter 72.23 RCW.

23 (12) "Adult family home" has the meaning set forth in RCW
24 70.128.010.

25 (13) "Boarding home" has the meaning set forth in RCW 18.20.020.

26 **Sec. 313.** RCW 70.124.030 and 1981 c 174 s 3 are each amended to
27 read as follows:

28 (1) When any practitioner, social worker, psychologist, pharmacist,
29 employee of a nursing home, employee of an adult family home, employee
30 of a boarding home, employee of a state hospital, or employee of the
31 department has reasonable cause to believe that a nursing home, adult
32 family home, boarding home, or state hospital patient has suffered
33 abuse or neglect, the person shall report such incident, or cause a
34 report to be made, to either a law enforcement agency or to the
35 department as provided in RCW 70.124.040.

36 (2) Any other person who has reasonable cause to believe that a
37 nursing home, adult family home, boarding home, or state hospital
38 patient has suffered abuse or neglect may report such incident to

1 either a law enforcement agency or to the department as provided in RCW
2 70.124.040.

3 (3) The department or any law enforcement agency receiving a report
4 of an incident of abuse or neglect involving a nursing home, adult
5 family home, boarding home, or state hospital patient who has died or
6 has had physical injury or injuries inflicted other than by accidental
7 means or who has been subjected to sexual abuse shall report the
8 incident to the proper county prosecutor for appropriate action.

9 **Sec. 314.** RCW 70.124.040 and 1981 c 174 s 4 are each amended to
10 read as follows:

11 (1) Where a report is (~~deemed warranted~~) required under RCW
12 70.124.030, an immediate oral report shall be made by telephone or
13 otherwise to either a law enforcement agency or to the department and,
14 upon request, shall be followed by a report in writing. The reports
15 shall contain the following information, if known:

16 (a) The name and address of the person making the report;

17 (b) The name and address of the nursing home, adult family home,
18 boarding home, or state hospital patient;

19 (c) The name and address of the patient's relatives having
20 responsibility for the patient;

21 (d) The nature and extent of the injury or injuries;

22 (e) The nature and extent of the neglect;

23 (f) The nature and extent of the sexual abuse;

24 (g) Any evidence of previous injuries, including their nature and
25 extent; and

26 (h) Any other information which may be helpful in establishing the
27 cause of the patient's death, injury, or injuries, and the identity of
28 the perpetrator or perpetrators.

29 (2) Each law enforcement agency receiving such a report shall, in
30 addition to taking the action required by RCW 70.124.050, immediately
31 relay the report to the department, and to other law enforcement
32 agencies, including the medicaid fraud control unit of the office of
33 the attorney general, as appropriate. For any report it receives, the
34 department shall likewise take the required action and in addition
35 relay the report to the appropriate law enforcement agency or agencies.
36 The appropriate law enforcement agency or agencies shall receive
37 immediate notification when the department, upon receipt of such

1 report, has reasonable cause to believe that a criminal act has been
2 committed.

3 **Sec. 315.** RCW 70.124.070 and 1979 ex.s. c 228 s 7 are each amended
4 to read as follows:

5 A person who is required to make or to cause to be made a report
6 pursuant to RCW 70.124.030 or 70.124.040 and who knowingly fails to
7 make such report or fails to cause such report to be made is guilty of
8 a gross misdemeanor.

9 NEW SECTION. **Sec. 316.** A new section is added to chapter 70.124
10 RCW to read as follows:

11 (1) An employee who is a whistleblower and who as a result of being
12 a whistleblower has been subjected to workplace reprisal or retaliatory
13 action, has the remedies provided under chapter 49.60 RCW. RCW
14 4.24.500 through 4.24.520, providing certain protection to persons who
15 communicate to government agencies, apply to complaints made under this
16 section. The identity of a whistleblower who complains, in good faith,
17 to the department about suspected abuse, neglect, financial
18 exploitation, or abandonment by any person in a nursing home, state
19 hospital, boarding home, or adult family home may remain confidential
20 if requested. The identity of the whistleblower shall subsequently
21 remain confidential unless the department determines that the complaint
22 was not made in good faith.

23 (2)(a) An attempt to expel a resident from a nursing home, state
24 hospital, adult family home, or boarding home, or any type of
25 discriminatory treatment of a resident by whom, or upon whose behalf,
26 a complaint has been submitted to the department or any proceeding
27 instituted under or related to this chapter within one year of the
28 filing of the complaint or the institution of the action, raises a
29 rebuttable presumption that the action was in retaliation for the
30 filing of the complaint.

31 (b) The presumption is rebutted by credible evidence establishing
32 the alleged retaliatory action was initiated prior to the complaint.

33 (3) For the purposes of this section:

34 (a) "Whistleblower" means a resident or employee of a nursing home,
35 state hospital, or adult family home, or any person licensed under
36 Title 18 RCW, who in good faith reports alleged abuse or neglect to the
37 department or to a law enforcement agency; and

1 (b) "Workplace reprisal or retaliatory action" means, but is not
2 limited to: Denial of adequate staff to perform duties; frequent staff
3 changes; frequent and undesirable office changes; refusal to assign
4 meaningful work; unwarranted and unsubstantiated report of misconduct
5 under Title 18 RCW; letters of reprimand or unsatisfactory performance
6 evaluations; demotion; denial of employment; or a supervisor or
7 superior encouraging coworkers to behave in a hostile manner toward the
8 whistleblower.

9 (4) This section does not prohibit a nursing home, state hospital,
10 or adult family home from exercising its authority to terminate,
11 suspend, or discipline an employee who engages in workplace reprisal or
12 retaliatory action against a whistleblower. The protections provided
13 to whistleblowers under this chapter shall not prevent a nursing home,
14 state hospital, boarding home, or adult family home from terminating,
15 suspending, or disciplining a whistleblower for other lawful purposes.

16 (5) The department shall adopt rules to implement procedures for
17 filing, investigation, and resolution of whistleblower complaints that
18 are integrated with complaint procedures under this chapter.

19 (6) No frail elder or vulnerable person who relies upon and is
20 being provided spiritual treatment in lieu of medical treatment in
21 accordance with the tenets and practices of a well-recognized religious
22 denomination shall for that reason alone be considered abandoned,
23 abused, or neglected, nor shall anything in this chapter be construed
24 to authorize, permit, or require medical treatment contrary to the
25 stated or clearly implied objection of such a person.

26 NEW SECTION. **Sec. 317.** A new section is added to chapter 74.34
27 RCW to read as follows:

28 A person who is required to make or cause to be made a report under
29 RCW 74.34.030 or 74.34.040 and who knowingly fails to make the report
30 or fails to cause the report to be made is guilty of a gross
31 misdemeanor.

32 NEW SECTION. **Sec. 318.** A new section is added to chapter 74.34
33 RCW to read as follows:

34 (1) An employee who is a whistleblower and who as a result of being
35 a whistleblower has been subjected to workplace reprisal or retaliatory
36 action, has the remedies provided under chapter 49.60 RCW. RCW
37 4.24.500 through 4.24.520, providing certain protection to persons who

1 communicate to government agencies, apply to complaints made under this
2 section. The identity of a whistleblower who complains, in good faith,
3 to the department about suspected abuse, neglect, exploitation, or
4 abandonment by any person in a boarding home licensed or required to be
5 licensed pursuant to chapter 18.20 RCW may remain confidential if
6 requested. The identity of the whistleblower shall subsequently remain
7 confidential unless the department determines that the complaint was
8 not made in good faith.

9 (2)(a) An attempt to expel a resident from a boarding home, or any
10 type of discriminatory treatment of a resident by whom, or upon whose
11 behalf, a complaint has been submitted to the department or any
12 proceeding instituted under or related to this chapter within one year
13 of the filing of the complaint or the institution of the action, raises
14 a rebuttable presumption that the action was in retaliation for the
15 filing of the complaint.

16 (b) The presumption is rebutted by credible evidence establishing
17 the alleged retaliatory action was initiated prior to the complaint.

18 (3) For the purposes of this section:

19 (a) "Whistleblower" means a resident or employee of a boarding
20 home, or any person licensed under Title 18 RCW, who in good faith
21 reports alleged abuse or neglect to the department or to a law
22 enforcement agency; and

23 (b) "Workplace reprisal or retaliatory action" means, but is not
24 limited to: Denial of adequate staff to perform duties; frequent staff
25 changes; frequent and undesirable office changes; refusal to assign
26 meaningful work; unwarranted and unsubstantiated report of misconduct
27 under Title 18 RCW; letters of reprimand or unsatisfactory performance
28 evaluations; demotion; denial of employment; or a supervisor or
29 superior encouraging coworkers to behave in a hostile manner toward the
30 whistleblower.

31 (4) This section does not prohibit a boarding home from exercising
32 its authority to terminate, suspend, or discipline any employee who
33 engages in workplace reprisal or retaliatory action against a
34 whistleblower.

35 (5) The department shall adopt rules to implement procedures for
36 filing, investigation, and resolution of whistleblower complaints that
37 are integrated with complaint procedures under this chapter.

1 **Sec. 319.** RCW 70.129.030 and 1994 c 214 s 4 are each amended to
2 read as follows:

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

9 (2) The resident or his or her legal representative has the right:

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

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

17 (3) The facility must inform each resident in writing in a language
18 the resident or his or her representative understands before(~~(, or at~~
19 ~~the time of)~~) admission, and at least once every twenty-four months
20 thereafter, of: (a) Services, items, and activities customarily
21 available in the facility or arranged for by the facility; (b) charges
22 for those services, items, and activities including charges for
23 services, items, and activities not covered by the facility's per diem
24 rate or applicable public benefit programs; and (c) the rules of
25 facility operations required under RCW 70.129.140(2). Each resident
26 and his or her representative must be informed in writing in advance of
27 changes in the availability or the charges for services, items, or
28 activities, or of changes in the facility's rules. Except in unusual
29 circumstances, thirty days' advance notice must be given prior to the
30 change.

31 (4) The facility must furnish a written description of residents
32 rights that includes:

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

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

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

4 (5) Notification of changes.

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

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

11 (ii) A significant change in the resident's physical, mental, or
12 psychosocial status (i.e., a deterioration in health, mental, or
13 psychosocial status in either life-threatening conditions or clinical
14 complications).

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

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

19 (ii) A decision to transfer or discharge the resident from the
20 facility.

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

24 (6) This section applies to long-term care facilities covered under
25 this chapter and nursing facilities licensed under chapter 18.51 RCW.

26 **Sec. 320.** RCW 70.129.110 and 1994 c 214 s 12 are each amended to
27 read as follows:

28 (1) The facility must permit each resident to remain in the
29 facility, and not transfer or discharge the resident from the facility
30 unless:

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

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

34 (c) The health of individuals in the facility would otherwise be
35 endangered;

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

38 (e) The facility ceases to operate.

1 (2) The long-term care facility shall only accept individuals whose
2 needs they can safely and appropriately serve in the facility with
3 current staff or through the provision of reasonable accommodations as
4 described in the written service plan completed by the department and
5 submitted to the provider in advance of placement. The service plan
6 may include, but is not limited to, a medical history, necessary and
7 prohibited medications, special dietary requirements, a medical
8 professional's diagnosis or prognosis as to why the resident needs
9 long-term care residential placement, significant behavioral patterns
10 that may cause concern, history of mental illness, and level of
11 personal care needs. All long-term care facilities shall fully
12 disclose to potential residents or their legal representative the
13 service capabilities of the facility prior to admission to the
14 facility. If the care needs of the potential resident are in excess of
15 the facilities' service capabilities, the department shall review the
16 placement order and if the department concurs with the facility, the
17 department shall identify other care settings or residential care
18 options consistent with federal law.

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

21 (a) First attempt through reasonable accommodations as defined by
22 the department to avoid the transfer or discharge, unless agreed to by
23 the resident;

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

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

29 ~~((e))~~ (d) Include in the notice the items described in subsection
30 ~~((4))~~ (5) of this section.

31 ~~((3))~~ (4)(a) Except when specified in this subsection, the notice
32 of transfer ~~((of {or}))~~ or discharge required under subsection ~~((2))~~
33 (3) of this section must be made by the facility at least thirty days
34 before the resident is transferred or discharged.

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

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

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

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

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

4 ~~((+4))~~ (5) The written notice specified in subsection ~~((+2))~~ (3)
5 of this section must include the following:

6 (a) The reason for transfer or discharge;

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

8 (c) The location to which the resident is transferred or
9 discharged;

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

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

17 (f) For residents who are mentally ill, the mailing address and
18 telephone number of the agency responsible for the protection and
19 advocacy of mentally ill individuals established under the protection
20 and advocacy for mentally ill individuals act.

21 ~~((+5))~~ (6) A facility must provide sufficient preparation and
22 orientation to residents to ensure safe and orderly transfer or
23 discharge from the facility.

24 ~~((+6))~~ (7) A resident discharged in violation of this section has
25 the right to be readmitted immediately upon the first availability of
26 a gender-appropriate bed in the facility.

27 **Sec. 321.** RCW 70.129.150 and 1994 c 214 s 16 are each amended to
28 read as follows:

29 (1) Prior to admission, all long-term care facilities or nursing
30 facilities licensed under chapter 18.51 RCW that require payment of an
31 admissions fee, deposit, advance notice before transferring from the
32 facility, or a minimum stay fee, by or on behalf of a person seeking
33 ~~((admissions [admission]))~~ admission to the long-term care facility or
34 nursing facility, shall provide the resident, or his or her
35 representative, full disclosure in writing ~~((of the long-term care~~
36 ~~facility or nursing facility's schedule of charges for items and~~
37 ~~services provided by the facility and))~~ in a language the resident or
38 his or her representative understands, a statement of the amount of any

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

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

32 **Sec. 322.** RCW 43.190.030 and 1995 c 399 s 105 are each amended to
33 read as follows:

34 There is created the office of the state long-term care ombudsman.
35 The department of community, trade, and economic development shall
36 contract with a private nonprofit organization to provide long-term
37 care ombudsman services as specified under, and consistent with, the
38 federal older Americans act as amended, federal mandates, the goals of

1 the state, and the needs of its citizens. The department of community,
2 trade, and economic development shall ensure that all program and staff
3 support necessary to enable the ombudsman to effectively protect the
4 interests of residents, patients, and clients of all long-term care
5 facilities is provided by the nonprofit organization that contracts to
6 provide long-term care ombudsman services. The department of
7 community, trade, and economic development shall adopt rules to carry
8 out this chapter and the long-term care ombudsman provisions of the
9 federal older Americans act, as amended. The long-term care ombudsman
10 program shall have the following powers and duties:

11 (1) To provide services for coordinating the activities of long-
12 term care ombudsmen throughout the state;

13 (2) Carry out such other activities as the department of community,
14 trade, and economic development deems appropriate;

15 (3) Establish procedures consistent with RCW 43.190.110 for
16 appropriate access by long-term care ombudsmen to long-term care
17 facilities and patients' records, including procedures to protect the
18 confidentiality of the records and ensure that the identity of any
19 complainant or resident will not be disclosed without the written
20 consent of the complainant or resident, or upon court order;

21 (4) Establish a state-wide uniform reporting system to collect and
22 analyze data relating to complaints and conditions in long-term care
23 facilities for the purpose of identifying and resolving significant
24 problems, with provision for submission of such data to the department
25 of social and health services and to the federal department of health
26 and human services, or its successor agency, on a regular basis; and

27 (5) Establish procedures to assure that any files maintained by
28 ombudsman programs shall be disclosed only at the discretion of the
29 ombudsman having authority over the disposition of such files, except
30 that the identity of any complainant or resident of a long-term care
31 facility shall not be disclosed by such ombudsman unless:

32 (a) Such complainant or resident, or the complainant's or
33 resident's legal representative, consents in writing to such
34 disclosure; or

35 (b) Such disclosure is required by court order.

36 **Sec. 323.** RCW 43.190.070 and 1983 c 290 s 7 are each amended to
37 read as follows:

1 (1) The office of the state long-term care ombudsman shall develop
2 referral procedures for all long-term care ombudsman programs to refer
3 any complaint to any appropriate state or local government agency. The
4 department of (~~social and health~~) long-term care services shall act
5 as quickly as possible on any complaint referred to them by a long-term
6 care ombudsman.

7 (2) The department of (~~social and health~~) long-term care services
8 shall respond to any complaint against a long-term care facility which
9 was referred to it by a long-term care ombudsman and shall forward to
10 that ombudsman a summary of the results of the investigation and action
11 proposed or taken.

12 **Sec. 324.** RCW 74.39A.030 and 1995 1st sp.s. c 18 s 2 are each
13 amended to read as follows:

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

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

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

21 (b) be authorized to use funds available under its community options
22 program entry system waiver granted under section 1915(c) of the
23 federal social security act to expand the availability of in-home,
24 adult residential care, adult family homes, enhanced adult residential
25 care, and assisted living services. By June 30, 1997, the department
26 shall undertake to reduce the nursing home medicaid census by at least
27 one thousand six hundred by assisting individuals who would otherwise
28 require nursing facility services to obtain services of their choice,
29 including assisted living services, enhanced adult residential care,
30 and other home and community services. If a resident, or his or her
31 legal representative, objects to a discharge decision initiated by the
32 department, the resident shall not be discharged if the resident has
33 been assessed and determined to require nursing facility services. In
34 contracting with nursing homes and boarding homes for enhanced adult
35 residential care placements, neither the department nor the department
36 of health shall (~~not~~) require, by contract or through other means,
37 structural modifications to existing building construction.

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

4 (b) The department may authorize an enhanced adult residential care
5 rate for nursing homes that temporarily or permanently convert their
6 bed use for the purpose of providing enhanced adult residential care
7 under chapter 70.38 RCW, when the department determines that payment of
8 an enhanced rate is cost-effective and necessary to foster expansion of
9 contracted enhanced adult residential care services. As an incentive
10 for nursing homes to permanently convert a portion of its nursing home
11 bed capacity for the purpose of providing enhanced adult residential
12 care, the department may authorize a supplemental add-on to the
13 enhanced adult residential care rate.

14 (c) The department may authorize a supplemental assisted living
15 services or an enhanced adult residential care services rate for up to
16 four years for facilities that convert from nursing home use and do not
17 retain rights to the converted nursing home beds under chapter 70.38
18 RCW, if the department determines that payment of a supplemental rate
19 is cost-effective and necessary to foster expansion of contracted
20 assisted living services.

21 **Sec. 325.** RCW 74.39A.040 and 1995 1st sp.s. c 18 s 6 are each
22 amended to read as follows:

23 The department shall work in partnership with hospitals, who choose
24 to participate, in assisting patients and their families to find long-
25 term care services of their choice according to subsections (1) through
26 (4) of this section. The department shall not delay hospital
27 discharges but shall assist and support the activities of hospital
28 discharge planners. The department also shall coordinate with home
29 health and hospice agencies whenever appropriate. The role of the
30 department is to assist the hospital and to assist patients and their
31 families in making informed choices by providing information regarding
32 home and community options to individuals who are hospitalized and
33 likely to need long-term care.

34 (1) To the extent of available funds, the department shall assess
35 individuals who:

36 (a) Are medicaid clients, medicaid applicants, or eligible for both
37 medicare and medicaid; and

1 (b) Apply or are likely to apply for admission to a nursing
2 facility.

3 (2) For individuals who are reasonably expected to become medicaid
4 recipients within one hundred eighty days of admission to a nursing
5 facility, the department shall, to the extent of available funds, offer
6 an assessment and information regarding appropriate in-home and
7 community services.

8 (3) When the department finds, based on assessment, that the
9 individual prefers and could live appropriately and cost-effectively at
10 home or in some other community-based setting, the department shall:

11 (a) Advise the individual that an in-home or other community
12 service is appropriate;

13 (b) Develop, with the individual or the individual's
14 representative, a comprehensive community service plan;

15 (c) Inform the individual regarding the availability of services
16 that could meet the applicant's needs as set forth in the community
17 service plan and explain the cost to the applicant of the available in-
18 home and community services relative to nursing facility care; and

19 (d) Discuss and evaluate the need for on-going involvement with the
20 individual or the individual's representative.

21 (4) When the department finds, based on assessment, that the
22 individual prefers and needs nursing facility care, the department
23 shall:

24 (a) Advise the individual that nursing facility care is appropriate
25 and inform the individual of the available nursing facility vacancies;

26 (b) If appropriate, advise the individual that the stay in the
27 nursing facility may be short term; and

28 (c) Describe the role of the department in providing nursing
29 facility case management.

30 **Sec. 326.** RCW 74.39A.050 and 1995 1st sp.s. c 18 s 12 are each
31 amended to read as follows:

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

35 (1) The system shall be (~~consumer~~) client-centered and promote
36 privacy, independence, dignity, choice, and a home or home-like
37 environment for consumers consistent with chapter . . . , Laws of 1997
38 (this act).

1 (2) The goal of the system is continuous quality improvement with
2 the focus on consumer satisfaction and outcomes for consumers. This
3 includes that when conducting licensing inspections, the department
4 shall interview an appropriate percentage of residents, family members,
5 resident managers, and advocates in addition to interviewing providers
6 and staff.

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

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

11 (5) Monitoring should be outcome based and responsive to consumer
12 complaints and a clear set of health, quality of care, and safety
13 standards that are easily understandable and have been made available
14 to providers.

15 (6) Providers ((generally)) at all levels of care should be
16 assisted in addressing identified problems initially through
17 consultation and technical assistance, unless the safety, health, or
18 well-being of a resident is seriously and immediately endangered.
19 Prompt, strict, and specific enforcement remedies shall be
20 ((available)) implemented for providers found to have delivered care or
21 failed to deliver care resulting in problems that are serious,
22 recurring, or that have been uncorrected. These enforcement remedies
23 must include, when appropriate, reasonable conditions on a contract or
24 license.

25 (7) To the extent funding is available, providers at all levels and
26 their staff should be screened through background checks in a uniform
27 and timely manner to ensure that they do not have a criminal history
28 that would disqualify them from working with vulnerable adults.
29 Screening should reasonably ensure that potential employees also
30 possess adequate skills, education, and training to provide the highest
31 quality of care consistent with the chronic health care needs of the
32 client, including when appropriate additional training, to include, but
33 not limited to, specialized care needs for persons with dementia,
34 traumatic head injury, mental illness, and developmental disabilities.

35 (8) Under existing funds the department shall establish a quality
36 improvement standards committee to review and implement the principles
37 set forth in chapter . . . , Laws of 1997 (this act).

1 **Sec. 327.** RCW 74.39A.060 and 1995 1st sp.s. c 18 s 13 are each
2 amended to read as follows:

3 (1) The ~~((aging and adult services administration of the))~~
4 department shall establish and maintain a toll-free telephone number
5 for receiving complaints regarding a facility that the
6 ~~((administration))~~ department licenses or with which it contracts for
7 long-term care services.

8 (2) All facilities that are licensed by, or that contract with the
9 ~~((aging and adult services administration))~~ department to provide
10 chronic long-term care services shall post in a place and manner
11 clearly visible to residents and visitors the department's toll-free
12 complaint telephone number and the toll-free number and program
13 description of the long-term care ombudsman as provided by RCW
14 43.190.050.

15 (3) The ~~((aging and adult services administration))~~ department
16 shall investigate complaints if the subject of the complaint is within
17 its authority unless the department determines that: (a) The complaint
18 is intended to willfully harass a licensee or employee of the licensee;
19 or (b) there is no reasonable basis for investigation; or (c)
20 corrective action has been taken as determined by the ombudsman or the
21 department.

22 (4) The ~~((aging and adult services administration))~~ department
23 shall refer complaints to appropriate state agencies, law enforcement
24 agencies, the attorney general, the long-term care ombudsman, or other
25 entities if the department lacks authority to investigate or if its
26 investigation reveals that a follow-up referral to one or more of these
27 entities is appropriate.

28 (5) The department shall adopt rules that include the following
29 complaint investigation protocols:

30 (a) Upon receipt of a complaint, the department shall make a
31 preliminary review of the complaint, assess the severity of the
32 complaint, and assign an appropriate response time. Complaints
33 involving imminent danger to the health, safety, or well-being of a
34 resident must be responded to within two days. When appropriate, the
35 department shall make an on-site investigation within a reasonable time
36 after receipt of the complaint or otherwise ensure that complaints are
37 responded to.

38 (b) The complainant must be: Promptly contacted by the department
39 and informed of the right to meet the inspector at the site of the

1 alleged violations, unless the inspector determines that the privacy of
2 residents would be violated or compromised thereby or the investigator
3 determines that imminent danger to the resident necessitates an initial
4 response before the complainant is available; informed of the
5 department's proposed course of action; and informed of the right to
6 receive a written copy of the investigation report.

7 (c) In conducting the investigation, the department shall interview
8 the complainant, unless anonymous, and shall use its best efforts to
9 interview the resident or residents allegedly harmed by the violations,
10 the family members of these residents, and, in addition to facility
11 staff, any available independent sources of relevant information.

12 (d) Substantiated complaints involving harm to residents may be
13 sanctioned according to RCW 74.39A.080. Whenever appropriate, the
14 department shall also give consultation and technical assistance to the
15 provider.

16 (e) After a department finding of a violation that is serious,
17 recurring, or uncorrected following a previous citation, the department
18 shall, if funds are available, make an on-site revisit of the facility
19 to ensure correction of the violation.

20 (f) Substantiated complaints of neglect, abuse, exploitation, or
21 abandonment of residents, or suspected criminal violations, shall also
22 be referred by the department to the appropriate law enforcement
23 agencies, the attorney general, and appropriate professional
24 disciplinary boards.

25 (6) The department may ((not)) provide the substance of the
26 complaint to the licensee or contractor before the completion of the
27 investigation by the department unless such disclosure would reveal the
28 identity of a complainant who chooses to remain anonymous. Neither the
29 substance of the complaint provided to the licensee or contractor nor
30 any copy of the complaint or related report published, released, or
31 made otherwise available shall disclose, or reasonably lead to the
32 disclosure of, the name, title, or identity of any complainant, or
33 other person mentioned in the complaint, except that the name of the
34 provider and the name or names of any officer, employee, or agent of
35 the department conducting the investigation shall be disclosed after
36 the investigation has been closed and the complaint has been
37 substantiated. The department may disclose the identity of the
38 complainant if such disclosure is requested in writing by the
39 complainant. Nothing in this subsection shall be construed to

1 interfere with the obligation of the long-term care ombudsman program
2 to monitor the department's licensing, contract, and complaint
3 investigation files for long-term care facilities.

4 ~~((+6+))~~ (7) The resident has the right to be free of interference,
5 coercion, discrimination, and reprisal from a facility in exercising
6 his or her rights, including the right to voice grievances about
7 treatment furnished or not furnished. A facility that provides long-
8 term care services shall not discriminate or retaliate in any manner
9 against a resident, employee, or any other person on the basis or for
10 the reason that such resident or any other person made a complaint to
11 the department, the attorney general, law enforcement agencies, or the
12 long-term care ombudsman, provided information, or otherwise cooperated
13 with the investigation of such a complaint. Any attempt to discharge
14 a resident against the resident's wishes, or any type of retaliatory
15 treatment of a resident by whom or upon whose behalf a substantiated
16 serious complaint has been made to the department, the attorney
17 general, law enforcement agencies, or the long-term care ombudsman,
18 within one year of the filing of the complaint, raises a rebuttable
19 presumption that such action was in retaliation for the filing of the
20 complaint. "Retaliatory treatment" means, but is not limited to,
21 monitoring a resident's phone, mail, or visits; involuntary seclusion
22 or isolation; transferring a resident to a different room unless
23 requested or based upon legitimate management reasons; withholding or
24 threatening to withhold food or treatment; or persistently delaying
25 responses to a resident's request for service or assistance. A
26 facility that provides long-term care services shall not willfully
27 interfere with the performance of official duties by a long-term care
28 ombudsman. The department ((may)) shall impose a civil penalty of not
29 more than three thousand dollars for a violation of this subsection and
30 require the facility to mitigate any damages incurred by the resident,
31 employee, or other person.

32 **Sec. 328.** RCW 74.39A.080 and 1996 c 193 s 1 are each amended to
33 read as follows:

34 (1) The department is authorized to take one or more of the actions
35 listed in subsection (2) of this section in any case in which the
36 department finds that a provider of assisted living services, adult
37 residential care services, adult family home, or enhanced adult
38 residential care services has:

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

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

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

8 (d) Willfully prevented or interfered with any inspection or
9 investigation by the department.

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

12 (a) Refuse to issue a contract;

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

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

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

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

21 (3) When the department orders stop placement, the facility shall
22 not admit any person admitted by contract until the stop placement
23 order is terminated. The department may approve readmission of a
24 resident to the facility from a hospital or nursing home during the
25 stop placement. The department shall terminate the stop placement
26 when: (a) The violations necessitating the stop placement have been
27 corrected; and (b) the provider exhibits the capacity to maintain
28 adequate care and service.

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

34 **PART IV**

35 **ESTATE RECOVERY CONSUMER DISCLOSURE**

36 NEW SECTION. **Sec. 401.** A new section is added to chapter 43.20B
37 RCW to read as follows:

1 (1) It is the intent of the legislature to ensure that needy
2 individuals have access to basic medical care without requiring them to
3 sell their homes. In the face of rising medical costs and limited
4 funding for social welfare programs, however, the state's medicaid and
5 state-funded long-term care programs have placed an increasing
6 financial burden on the state. By balancing the interests of
7 individuals with immediate and future unmet medical care needs,
8 surviving spouses and dependent children, adult nondependent children,
9 more distant heirs, and the state, the estate recovery provisions of
10 RCW 43.20B.080 and 74.39A.170 provide an equitable and reasonable
11 method of easing the state's financial burden while ensuring the
12 continued viability of the medicaid and state-funded long-term care
13 programs.

14 (2) It is further the intent of the legislature to confirm that
15 chapter 21, Laws of 1994, effective July 1, 1994, repealed and
16 substantially reenacted the state's medicaid estate recovery laws and
17 did not eliminate the department's authority to recover the cost of
18 medical assistance paid prior to October 1, 1993, from the estates of
19 deceased recipients regardless of whether they died before, on, or
20 after July 1, 1994.

21 NEW SECTION. **Sec. 402.** A new section is added to chapter 43.20B
22 RCW to read as follows:

23 People with developmental disabilities and their families who
24 support them are exempt from this chapter.

25 **Sec. 403.** RCW 43.20B.080 and 1995 1st sp.s. c 18 s 67 are each
26 amended to read as follows:

27 (1) The department shall file liens, seek adjustment, or otherwise
28 effect recovery for medical assistance correctly paid on behalf of an
29 individual (~~((as required by this chapter and))~~) consistent with 42
30 U.S.C. Sec. 1396p.

31 (2) Liens may be adjusted by foreclosure in accordance with chapter
32 61.12 RCW.

33 (3) In the case of an individual who was fifty-five years of age or
34 older when the individual received medical assistance, the department
35 shall seek adjustment or recovery from the individual's estate, and
36 from nonprobate assets of the individual as defined by RCW 11.02.005
37 (~~((except property passing through a community property agreement))~~), but

1 only for medical assistance consisting of nursing facility services,
2 home and community-based services, other services that the department
3 determines to be appropriate, and related hospital and prescription
4 drug services. Recovery from the individual's estate, including
5 foreclosure of liens imposed under this section, shall be undertaken as
6 soon as practicable, consistent with (~~the requirements of~~) 42 U.S.C.
7 Sec. 1396p.

8 (4) The provision that relates to the elimination of the community
9 property agreement exemption to recovery made by chapter ---, Laws of
10 1997 (this act) applies as follows:

11 (a) If a recipient received assistance subject to estate recovery
12 on or after the effective date of this section, the department may
13 recover from the estate or nonprobate assets of a deceased recipient
14 the cost of all the assistance received, whenever received, in
15 accordance with the law in effect at the time of the recipient's death;
16 and

17 (b) If a recipient does not receive assistance subject to estate
18 recovery on or after the effective date of this section, but did
19 receive the assistance before the effective date of this section, the
20 department may recover from the estate or nonprobate assets of a
21 deceased recipient the cost of all the assistance received, whenever
22 received, in accordance with the law in effect at the time of the last
23 assistance payment made by the department on the recipient's behalf.

24 (5)(a) The department shall establish procedures consistent with
25 standards established by the federal department of health and human
26 services and pursuant to 42 U.S.C. Sec. 1396p to waive recovery when
27 such recovery would work an undue hardship.

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

32 (~~(5)~~) (6) A lien authorized under subsections (1) through (5) of
33 this section relates back to attach to any real property that the
34 decedent had an ownership interest in immediately before death and is
35 effective as of that date.

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

1 **Sec. 404.** RCW 74.34.010 and 1995 1st sp.s. c 18 s 82 are each
2 amended to read as follows:

3 The legislature finds that frail elders and vulnerable adults may
4 be subjected to abuse, neglect, exploitation, or abandonment. The
5 legislature finds that there are a number of adults sixty years of age
6 or older who lack the ability to perform or obtain those services
7 necessary to maintain or establish their well-being. The legislature
8 finds that many frail elders and vulnerable adults have health problems
9 that place them in a dependent position. The legislature further finds
10 that a significant number of frail elders and vulnerable adults have
11 mental and verbal limitations that leave them vulnerable and incapable
12 of asking for help and protection.

13 It is the intent of the legislature to prevent or remedy the abuse,
14 neglect, exploitation, or abandonment of persons sixty years of age or
15 older who have a functional, mental, or physical inability to care for
16 or protect themselves.

17 It is the intent of the legislature to assist frail elders and
18 vulnerable adults by providing these persons with the protection of the
19 courts and with the least-restrictive services, such as home care, and
20 by preventing or reducing inappropriate institutional care. The
21 legislature finds that it is in the interests of the public health,
22 safety, and welfare of the people of the state to provide a procedure
23 for identifying these vulnerable persons and providing the services and
24 remedies necessary for their well-being.

25 It is further the intent of the legislature that the cost of
26 protective services rendered to a frail elder or vulnerable adult under
27 this chapter that are paid with state funds only not be subject to
28 recovery from the recipient or the recipient's estate, whether by lien,
29 adjustment, or any other means of recovery, regardless of the income or
30 assets of the recipient of the services. In making this exemption the
31 legislature recognizes that receipt of such services is voluntary and
32 incentives to decline services or delay permission must be kept to a
33 minimum. There may be a need to act or intervene quickly to protect
34 the assets, health, or well-being of a frail elder or vulnerable adult;
35 to prevent or halt the exploitation, neglect, abandonment, or abuse of
36 the person or assets of a frail elder or vulnerable adult; or to
37 prevent or limit inappropriate placement or retention in an institution
38 providing long-term care. The delivery of such services is less likely
39 to be impeded, and consent to such services will be more readily

1 obtained, if the cost of these services is not subject to recovery.
2 The legislature recognizes that there will be a cost in not seeking
3 financial recovery for such services, but that this cost may be offset
4 by preventing costly and inappropriate institutional placement.

5 NEW SECTION. Sec. 405. A new section is added to chapter 74.34
6 RCW to read as follows:

7 The cost of benefits and services provided to a frail elder or
8 vulnerable adult under this chapter with state funds only does not
9 constitute an obligation or lien and is not recoverable from the
10 recipient of the services or from the recipient's estate, whether by
11 lien, adjustment, or any other means of recovery.

12 **Sec. 406.** RCW 74.39A.170 and 1995 1st sp.s. c 18 s 56 are each
13 amended to read as follows:

14 (1) All payments made in state-funded long-term care shall be
15 recoverable as if they were medical assistance payments subject to
16 recovery under 42 U.S.C. Sec. 1396p and chapter 43.20B RCW(~~(, but)~~)
17 without regard to the recipient's age, except the cost of state-funded
18 adult protective services provided under chapter 74.34 RCW to frail
19 elders and vulnerable adults.

20 (2) In determining eligibility for state-funded long-term care
21 services programs, except for protective services provided to frail
22 elders and vulnerable adults, the department shall impose the same
23 rules with respect to the transfer of assets for less than fair market
24 value as are imposed under 42 U.S.C. 1396p with respect to nursing home
25 and home and community services.

26 (3) It is the responsibility of the department to fully disclose in
27 advance verbally and in writing, in easy to understand language, the
28 terms and conditions of estate recovery. The disclosure must include
29 billing and recovery and copayment procedures to all persons offered
30 long-term care services subject to recovery of payments.

31 (4) In disclosing estate recovery costs to potential clients and
32 their family members, the department shall provide a written
33 description of the community service options. The description must
34 include supervision, wages, and the full direct and indirect costs
35 associated with each care option offered.

36 (5) To the extent funds are available and in compliance with
37 federal law, the department is responsible for also notifying the

1 client, or his or her advocate, quarterly of the types of services
2 used, charges for services, credit amount of copayment, and the
3 difference (debt) that will be charged against the estate.

4 **PART V**

5 **BOARDING HOME UNIFORM DISCIPLINARY ACT**

6 NEW SECTION. **Sec. 501.** Unless the context clearly requires
7 otherwise, the definitions in this section apply throughout this
8 chapter.

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

10 (2) "Boarding home" means a facility licensed under chapter 18.20
11 RCW.

12 (3) "Boarding home provider" means any person who is licensed under
13 chapter 18.20 RCW to operate a boarding home.

14 (4) "Boarding home operator" means a person who is employed or
15 otherwise is contracted with by the provider to manage a boarding home.

16 NEW SECTION. **Sec. 502.** (1) The secretary shall register boarding
17 home operators and providers.

18 (2) The secretary, by policy or rule, shall define terms and
19 establish forms and procedures for registration applications, including
20 the payment of registration fees pursuant to RCW 43.70.250. An
21 application for boarding home operator or provider registration must
22 include at least the following information:

23 (a) Name and address; and

24 (b) If the provider is a corporation, copies of its articles of
25 incorporation and current bylaws, together with the names and addresses
26 of its officers and directors.

27 (3) The secretary shall adopt policies or rules to establish the
28 registration periods, fees, and procedures. If the boarding home is
29 sold or ownership or management is transferred, the registration is
30 voided and the provider and operator must apply for a new registration.

31 NEW SECTION. **Sec. 503.** The uniform disciplinary act, chapter
32 18.130 RCW, governs the issuance and denial of registration and the
33 discipline of persons registered under this chapter. The secretary is
34 the disciplinary authority under this chapter.

1 NEW SECTION. **Sec. 504.** A provider who operates more than one
2 boarding home must register for each separate location.

3 **Sec. 505.** RCW 18.20.040 and 1957 c 253 s 4 are each amended to
4 read as follows:

5 (1) An application for a license shall be made to the department or
6 authorized department upon forms provided by either of said departments
7 and shall contain such information as the department reasonably
8 requires, which shall include affirmative evidence of ability to comply
9 with such rules and regulations as are lawfully promulgated by the
10 board.

11 (2) Boarding home operators and boarding home providers, as defined
12 in section 501 of this act, must register with the department of health
13 under section 502 of this act.

14 **Sec. 506.** RCW 18.130.040 and 1996 c 200 s 32 and 1996 c 81 s 5 are
15 each reenacted and amended to read as follows:

16 (1) This chapter applies only to the secretary and the boards and
17 commissions having jurisdiction in relation to the professions licensed
18 under the chapters specified in this section. This chapter does not
19 apply to any business or profession not licensed under the chapters
20 specified in this section.

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

23 (i) Dispensing opticians licensed under chapter 18.34 RCW;
24 (ii) Naturopaths licensed under chapter 18.36A RCW;
25 (iii) Midwives licensed under chapter 18.50 RCW;
26 (iv) Ocularists licensed under chapter 18.55 RCW;
27 (v) Massage operators and businesses licensed under chapter 18.108
28 RCW;

29 (vi) Dental hygienists licensed under chapter 18.29 RCW;

30 (vii) Acupuncturists licensed under chapter 18.06 RCW;

31 (viii) Radiologic technologists certified and X-ray technicians
32 registered under chapter 18.84 RCW;

33 (ix) Respiratory care practitioners certified under chapter 18.89
34 RCW;

35 (x) Persons registered or certified under chapter 18.19 RCW;

36 (xi) Persons registered as nursing pool operators under chapter
37 18.52C RCW;

1 (xii) Nursing assistants registered or certified under chapter
2 18.79 RCW;

3 (xiii) Health care assistants certified under chapter 18.135 RCW;
4 (xiv) Dietitians and nutritionists certified under chapter 18.138
5 RCW;

6 (xv) Sex offender treatment providers certified under chapter
7 18.155 RCW;

8 (xvi) Persons licensed and certified under chapter 18.73 RCW or RCW
9 18.71.205;

10 (xvii) Persons registered as adult family home providers and
11 resident managers under RCW 18.48.020; (~~and~~)

12 (xviii) Denturists licensed under chapter 18.30 RCW; and
13 (xix) Boarding home operators and providers licensed under chapter
14 18.20 RCW.

15 (b) The boards and commissions having authority under this chapter
16 are as follows:

17 (i) The podiatric medical board as established in chapter 18.22
18 RCW;

19 (ii) The chiropractic quality assurance commission as established
20 in chapter 18.25 RCW;

21 (iii) The dental quality assurance commission as established in
22 chapter 18.32 RCW;

23 (iv) The board of hearing and speech as established in chapter
24 18.35 RCW;

25 (v) The board of examiners for nursing home administrators as
26 established in chapter 18.52 RCW;

27 (vi) The optometry board as established in chapter 18.54 RCW
28 governing licenses issued under chapter 18.53 RCW;

29 (vii) The board of osteopathic medicine and surgery as established
30 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
31 18.57A RCW;

32 (viii) The board of pharmacy as established in chapter 18.64 RCW
33 governing licenses issued under chapters 18.64 and 18.64A RCW;

34 (ix) The medical quality assurance commission as established in
35 chapter 18.71 RCW governing licenses and registrations issued under
36 chapters 18.71 and 18.71A RCW;

37 (x) The board of physical therapy as established in chapter 18.74
38 RCW;

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

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

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

7 (xiv) The veterinary board of governors as established in chapter
8 18.92 RCW.

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

17 (4) All disciplining authorities shall adopt procedures to ensure
18 substantially consistent application of this chapter, the Uniform
19 Disciplinary Act, among the disciplining authorities listed in
20 subsection (2) of this section.

21 NEW SECTION. **Sec. 507.** The department of health in cooperation
22 with the department of social and health services shall develop a plan
23 for implementing a pilot program for accrediting boarding homes
24 licensed under RCW 18.20.020 with a recognized national nongovernmental
25 accreditation organization or an organization with experience in
26 developing and implementing accreditation programs in at least two
27 states. The plan shall review the overall feasibility of
28 implementation, cost or savings to the department of health, impact on
29 client health and safety, and financial and other impacts to the
30 boarding industry. The pilot boarding home accreditation plan shall be
31 presented to the appropriate committees of the house of representatives
32 and the senate by January 5, 1998.

33 **PART VI**

34 **ADULT FAMILY HOMES**

35 **Sec. 601.** RCW 70.128.175 and 1995 1st sp.s. c 18 s 29 are each
36 amended to read as follows:

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

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

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

12 (c) "Department" means the department of ~~((social and health~~
13 ~~services))~~ long-term care services.

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

18 NEW SECTION. **Sec. 602.** The department of social and health
19 services shall implement a limited moratorium on the authorization of
20 adult family home licenses until December 12, 1997, or until the
21 advisory committee has determined that all adult family home and group
22 home safety and quality of care standards have been reviewed by the
23 department, determined by the secretary to reasonably protect the life,
24 safety, and health of residents, and has notified all adult family home
25 and group home operators of the standards of care or any modifications
26 to the existing standards. This limited moratorium shall in no way
27 prevent a person eligible to receive services from receiving the same
28 or equivalent chronic long-term care services. In the event of a need
29 for such services, the department shall develop a process for
30 determining the availability of chronic long-term care residential
31 services on a case-by-case basis to determine if an adult family home
32 license should be granted to accommodate the needs of a particular
33 geographical or ethnic community. The secretary shall make the final
34 determination on individual case licensure until December 12, 1997, or
35 until the moratorium has been removed.

36 **PART VII**

37 **MISCELLANEOUS PROVISIONS**

1 **Sec. 701.** RCW 43.17.010 and 1993 sp.s. c 2 s 16, 1993 c 472 s 17,
2 and 1993 c 280 s 18 are each reenacted and amended to read as follows:

3 There shall be departments of the state government which shall be
4 known as (1) the department of social and health services, (2) the
5 department of ecology, (3) the department of labor and industries, (4)
6 the department of agriculture, (5) the department of fish and wildlife,
7 (6) the department of transportation, (7) the department of licensing,
8 (8) the department of general administration, (9) the department of
9 community, trade, and economic development, (10) the department of
10 veterans affairs, (11) the department of revenue, (12) the department
11 of retirement systems, (13) the department of corrections, ((and)) (14)
12 the department of health, ((and)) (15) the department of financial
13 institutions, and (16) the department of long-term care services, which
14 shall be charged with the execution, enforcement, and administration of
15 such laws, and invested with such powers and required to perform such
16 duties, as the legislature may provide.

17 **Sec. 702.** RCW 43.17.020 and 1995 1st sp.s. c 2 s 2 (Referendum
18 Bill No. 45) are each amended to read as follows:

19 There shall be a chief executive officer of each department to be
20 known as: (1) The secretary of social and health services, (2) the
21 director of ecology, (3) the director of labor and industries, (4) the
22 director of agriculture, (5) the director of fish and wildlife, (6) the
23 secretary of transportation, (7) the director of licensing, (8) the
24 director of general administration, (9) the director of community,
25 trade, and economic development, (10) the director of veterans affairs,
26 (11) the director of revenue, (12) the director of retirement systems,
27 (13) the secretary of corrections, ((and)) (14) the secretary of
28 health, ((and)) (15) the director of financial institutions, and (16)
29 the secretary of long-term care services.

30 Such officers, except the secretary of transportation and the
31 director of fish and wildlife, shall be appointed by the governor, with
32 the consent of the senate, and hold office at the pleasure of the
33 governor. The secretary of transportation shall be appointed by the
34 transportation commission as prescribed by RCW 47.01.041. The director
35 of fish and wildlife shall be appointed by the fish and wildlife
36 commission as prescribed by RCW 77.04.055.

1 NEW SECTION. **Sec. 703.** A new section is added to chapter 41.06
2 RCW to read as follows:

3 In addition to the exemptions under RCW 41.06.070, the provisions
4 of this chapter shall not apply in the department of long-term care
5 services to the secretary and persons exempt under section 110 of this
6 act.

7 NEW SECTION. **Sec. 704.** The following acts or parts of acts are
8 each repealed:

- 9 (1) RCW 74.39.001 and 1989 c 427 s 1;
- 10 (2) RCW 74.39.005 and 1995 1st sp.s. c 18 s 10 & 1989 c 427 s 2;
- 11 (3) RCW 74.39.030 and 1989 c 427 s 11;
- 12 (4) RCW 74.39.040 and 1989 c 427 s 13;
- 13 (5) RCW 74.39A.005 and 1993 c 508 s 1;
- 14 (6) RCW 74.39A.007 and 1993 c 508 s 2; and
- 15 (7) RCW 74.39A.008 and 1995 1st sp.s. c 18 s 1.

16 NEW SECTION. **Sec. 705.** (1) Sections 102 through 115 of this act
17 constitute a new chapter in Title 43 RCW.

18 (2) Sections 501 through 504 of this act constitute a new chapter
19 in Title 18 RCW.

20 NEW SECTION. **Sec. 706.** (1) Sections 101 through 113, 201, and 701
21 through 704 of this act take effect July 1, 1998.

22 (2) Sections 114, 115, 401 through 406, 507, and 602 of this act
23 are necessary for the immediate preservation of the public peace,
24 health, or safety, or support of the state government and its existing
25 public institutions, and take effect immediately.

26 NEW SECTION. **Sec. 707.** Part headings and captions used in this
27 act are not part of the law.

--- END ---