

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 6225

Chapter 142, Laws of 2004
(partial veto)

58th Legislature
2004 Regular Session

BOARDING HOMES

EFFECTIVE DATE: 3/26/04 - Except sections 1 through 10 and 12,
which become effective 9/1/04.

Passed by the Senate March 10, 2004
YEAS 49 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 3, 2004
YEAS 95 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved March 26, 2004, with the
exception of section 11, which is vetoed.

GARY F. LOCKE

Governor of the State of Washington

CERTIFICATE

I, Milton H. Doumit, Jr.,
Secretary of the Senate of the
State of Washington, do hereby
certify that the attached is
SUBSTITUTE SENATE BILL 6225 as
passed by the Senate and the House
of Representatives on the dates
hereon set forth.

MILTON H. DOUMIT JR.

Secretary

FILED

March 26, 2004 - 3:13 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6225

AS AMENDED BY THE HOUSE

Passed Legislature - 2004 Regular Session

State of Washington 58th Legislature 2004 Regular Session

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

READ FIRST TIME 02/09/04.

1 AN ACT Relating to boarding homes; amending RCW 18.20.020,
2 18.20.160, 18.20.290, 74.39A.009, 74.39A.020, and 18.20.030; adding new
3 sections to chapter 18.20 RCW; adding a new section to chapter 42.17
4 RCW; creating a new section; providing an effective date; and declaring
5 an emergency.

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

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

9 As used in this chapter:

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

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

9 (2) "Basic services" means housekeeping services, meals, nutritious
10 snacks, laundry, and activities.

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

14 ~~((+3))~~ (4) "Secretary" means the secretary of social and health
15 services.

16 ~~((+4))~~ (5) "Department" means the state department of social and
17 health services.

18 ~~((+5))~~ (6) "Resident's representative" means a person designated
19 voluntarily by a competent resident, in writing, to act in the
20 resident's behalf concerning the care and services provided by the
21 boarding home and to receive information from the boarding home, if
22 there is no legal representative. The resident's competence shall be
23 determined using the criteria in RCW 11.88.010(1)(e). The resident's
24 representative may not be affiliated with the licensee, boarding home,
25 or management company, unless the affiliated person is a family member
26 of the resident. The resident's representative shall not have
27 authority to act on behalf of the resident once the resident is no
28 longer competent.

29 (7) "Domiciliary care" means: Assistance with activities of daily
30 living provided by the boarding home either directly or indirectly; or
31 ~~((assuming general responsibility for the safety and well-being of the~~
32 ~~resident)) health support services, if provided directly or indirectly~~
33 ~~by the boarding home; or intermittent nursing services, if provided~~
34 directly or indirectly by the boarding home. ~~(("Domiciliary care" does~~
35 ~~not include general observation or preadmission assessment for the~~
36 ~~purposes of transitioning to a licensed care setting.~~

37 ~~(+6))~~ (8) "General responsibility for the safety and well-being of
38 the resident" means the provision of the following: Prescribed general

1 low sodium diets; prescribed general diabetic diets; prescribed
2 mechanical soft foods; emergency assistance; monitoring of the
3 resident; arranging health care appointments with outside health care
4 providers and reminding residents of such appointments as necessary;
5 coordinating health care services with outside health care providers
6 consistent with section 10 of this act; assisting the resident to
7 obtain and maintain glasses, hearing aids, dentures, canes, crutches,
8 walkers, wheelchairs, and assistive communication devices; observation
9 of the resident for changes in overall functioning; blood pressure
10 checks as scheduled; responding appropriately when there are observable
11 or reported changes in the resident's physical, mental, or emotional
12 functioning; or medication assistance as permitted under RCW 69.41.085
13 and as defined in RCW 69.41.010.

14 ~~(("General responsibility for the safety and well being of the~~
15 ~~resident" does not include: (a) Emergency assistance provided on an~~
16 ~~intermittent or nonroutine basis to any nonresident individual; or (b)~~
17 ~~services customarily provided under landlord tenant agreements governed~~
18 ~~by the residential landlord tenant act, chapter 59.18 RCW. Such~~
19 ~~services do not include care or supervision.~~

20 ~~(7))~~ (9) "Legal representative" means a person or persons
21 identified in RCW 7.70.065 who may act on behalf of the resident
22 pursuant to the scope of their legal authority. The legal
23 representative shall not be affiliated with the licensee, boarding
24 home, or management company, unless the affiliated person is a family
25 member of the resident.

26 (10) "Nonresident individual" means a person who resides in
27 independent senior housing, independent living units in continuing care
28 retirement communities, or in other similar living environments or in
29 a boarding home and may receive one or more of the services listed in
30 RCW 18.20.030(5), but may not receive domiciliary care, as defined in
31 this chapter, directly or indirectly by the facility and may not
32 receive the items and services listed in subsection (8) of this
33 section.

34 (11) "Resident" means an individual who~~((Lives in a boarding~~
35 ~~home, including those receiving respite care;))~~ is not related by blood
36 or marriage to the operator of the boarding home~~((;))~~ and by reason of
37 age or disability, ((receives)) chooses to reside in the boarding home
38 and receives basic services and one or more of the services listed

1 under general responsibility for the safety and well-being of the
2 resident and may receive domiciliary care or respite care provided
3 ((either)) directly or indirectly by the boarding home and shall be
4 permitted to receive hospice care through an outside service provider
5 when arranged by the resident or the resident's legal representative
6 under section 10 of this act.

7 (12) "Resident applicant" means an individual who is seeking
8 admission to a licensed boarding home and who has completed and signed
9 an application for admission, or such application for admission has
10 been completed and signed in their behalf by their legal representative
11 if any, and if not, then the designated representative if any.

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

14 (1) A boarding home, licensed under this chapter, may provide
15 domiciliary care services, as defined in this chapter, and shall
16 disclose the scope of care and services that it chooses to provide.

17 (2) The boarding home licensee shall disclose to the residents, the
18 residents' legal representative if any, and if not, the residents'
19 representative if any, and to interested consumers upon request, the
20 scope of care and services offered, using the form developed and
21 provided by the department, in addition to any supplemental information
22 that may be provided by the licensee. The form that the department
23 develops shall be standardized, reasonable in length, and easy to read.
24 The boarding home's disclosure statement shall indicate the scope of
25 domiciliary care assistance provided and shall indicate that it permits
26 the resident or the resident's legal representative to independently
27 arrange for outside services under section 10 of this act.

28 (3)(a) If the boarding home licensee decreases the scope of
29 services that it provides due to circumstances beyond the licensee's
30 control, the licensee shall provide a minimum of thirty days' written
31 notice to the residents, the residents' legal representative if any,
32 and if not, the residents' representative if any, before the effective
33 date of the decrease in the scope of care or services provided.

34 (b) If the licensee voluntarily decreases the scope of services,
35 and any such decrease in the scope of services provided will result in
36 the discharge of one or more residents, then ninety days' written
37 notice shall be provided prior to the effective date of the decrease.

1 Notice shall be provided to the affected residents, the residents'
2 legal representative if any, and if not, the residents' representative
3 if any.

4 (c) If the boarding home licensee increases the scope of services
5 that it chooses to provide, the licensee shall promptly provide written
6 notice to the residents, the residents' legal representative if any,
7 and if not, the residents' representative if any, and shall indicate
8 the date on which the increase in the scope of care or services is
9 effective.

10 (4) When the care needs of a resident exceed the disclosed scope of
11 care or services that a boarding home licensee provides, the licensee
12 may exceed the care or services disclosed consistent with RCW
13 70.129.030(3) and RCW 70.129.110(3)(a). Providing care or services to
14 a resident that exceed the care and services disclosed may or may not
15 mean that the provider is capable of or required to provide the same
16 care or services to other residents.

17 (5) Even though the boarding home licensee may disclose that it can
18 provide certain care or services to resident applicants or to their
19 legal representative if any, and if not, to the resident applicants'
20 representative if any, the licensee may deny admission to a resident
21 applicant when the licensee determines that the needs of the resident
22 applicant cannot be met, as long as the provider operates in compliance
23 with state and federal law, including RCW 70.129.030(3).

24 (6) The disclosure form is intended to assist consumers in
25 selecting boarding home services and, therefore, shall not be construed
26 as an implied or express contract between the boarding home licensee
27 and the resident.

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

30 (1) Boarding homes are not required to provide assistance with one
31 or more activities of daily living.

32 (2) If a boarding home licensee chooses to provide assistance with
33 activities of daily living, the licensee shall provide at least the
34 minimal level of assistance for all activities of daily living
35 consistent with subsection (3) of this section and consistent with the
36 reasonable accommodation requirements in state or federal laws.
37 Activities of daily living are limited to and include the following:

- 1 (a) Bathing;
- 2 (b) Dressing;
- 3 (c) Eating;
- 4 (d) Personal hygiene;
- 5 (e) Transferring;
- 6 (f) Toileting; and
- 7 (g) Ambulation and mobility.

8 (3) The department shall, in rule, define the minimum level of
9 assistance that will be provided for all activities of daily living,
10 however, such rules shall not require more than occasional stand-by
11 assistance or more than occasional physical assistance.

12 (4) The licensee shall clarify, through the disclosure form, the
13 assistance with activities of daily living that may be provided, and
14 any limitations or conditions that may apply. The licensee shall also
15 clarify through the disclosure form any additional services that may be
16 provided.

17 (5) In providing assistance with activities of daily living, the
18 boarding home shall observe the resident for changes in overall
19 functioning and respond appropriately when there are observable or
20 reported changes in the resident's physical, mental, or emotional
21 functioning.

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

24 (1) The boarding home licensee may choose to provide any of the
25 following health support services, however, the facility may or may not
26 need to provide additional health support services to comply with the
27 reasonable accommodation requirements in federal or state law:

- 28 (a) Blood glucose testing;
- 29 (b) Puree diets;
- 30 (c) Calorie controlled diabetic diets;
- 31 (d) Dementia care;
- 32 (e) Mental health care; and
- 33 (f) Developmental disabilities care.

34 (2) The licensee shall clarify on the disclosure form any
35 limitations, additional services, or conditions that may apply.

36 (3) In providing health support services, the boarding home shall

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

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

6 (1) Boarding homes are not required to provide intermittent nursing
7 services. The boarding home licensee may choose to provide any of the
8 following intermittent nursing services through appropriately licensed
9 and credentialed staff, however, the facility may or may not need to
10 provide additional intermittent nursing services to comply with the
11 reasonable accommodation requirements in federal or state law:

- 12 (a) Medication administration;
- 13 (b) Administration of health care treatments;
- 14 (c) Diabetic management;
- 15 (d) Nonroutine ostomy care;
- 16 (e) Tube feeding; and
- 17 (f) Nurse delegation consistent with chapter 18.79 RCW.

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

21 (3) In providing intermittent nursing services, the boarding home
22 shall observe the resident for changes in overall functioning and
23 respond appropriately when there are observable or reported changes in
24 the resident's physical, mental, or emotional functioning.

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

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

29 (1) A boarding home licensee may permit a resident's family member
30 to administer medications or treatments or to provide medication or
31 treatment assistance to the resident. The licensee shall disclose to
32 the department, residents, the residents' legal representative if any,
33 and if not, the residents' representative if any, and to interested
34 consumers upon request, information describing whether the licensee
35 permits such family administration or assistance and, if so, the extent
36 of limitations or conditions thereof.

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

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

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

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

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

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

21 (4) The medication or treatment plan shall be signed and dated by:

22 (a) The resident, if able;

23 (b) The resident's legal representative, if any, and, if not, the
24 resident's representative, if any;

25 (c) The resident's family member; and

26 (d) The boarding home licensee.

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

31 (6) When a boarding home licensee permits residents' family members
32 to assist with or administer medications or treatments, the licensee's
33 duty of care, and any negligence that may be attributed thereto, shall
34 be limited to: Observation of the resident for changes in overall
35 functioning consistent with RCW 18.20.280; notification to the person
36 or persons identified in RCW 70.129.030 when there are observed changes
37 in the resident's overall functioning or condition, or when the
38 boarding home is aware that both the primary and alternate plan are not

1 implemented; and appropriately responding to obtain needed assistance
2 when there are observable or reported changes in the resident's
3 physical or mental functioning.

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

6 (1) The boarding home licensee shall conduct a preadmission
7 assessment for each resident applicant. The preadmission assessment
8 shall include the following information, unless unavailable despite the
9 best efforts of the licensee:

- 10 (a) Medical history;
- 11 (b) Necessary and contraindicated medications;
- 12 (c) A licensed medical or health professional's diagnosis, unless
13 the individual objects for religious reasons;
- 14 (d) Significant known behaviors or symptoms that may cause concern
15 or require special care;
- 16 (e) Mental illness diagnosis, except where protected by
17 confidentiality laws;
- 18 (f) Level of personal care needs;
- 19 (g) Activities and service preferences; and
- 20 (h) Preferences regarding other issues important to the resident
21 applicant, such as food and daily routine.

22 (2) The boarding home licensee shall complete the preadmission
23 assessment before admission unless there is an emergency. If there is
24 an emergency admission, the preadmission assessment shall be completed
25 within five days of the date of admission. For purposes of this
26 section, "emergency" includes, but is not limited to: Evening,
27 weekend, or Friday afternoon admissions if the resident applicant would
28 otherwise need to remain in an unsafe setting or be without adequate
29 and safe housing.

30 (3) The boarding home licensee shall complete an initial resident
31 service plan upon move-in to identify the resident's immediate needs
32 and to provide direction to staff and caregivers relating to the
33 resident's immediate needs. The initial resident service plan shall
34 include as much information as can be obtained, under subsection (1) of
35 this section.

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

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

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

12 (b) Current necessary and contraindicated medications and
13 treatments for the individual, including:

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

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

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

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

27 (d) The individual's sensory abilities, including vision and
28 hearing;

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

32 (f) Significant known behaviors or symptoms of the individual
33 causing concern or requiring special care, including: History of
34 substance abuse; history of harming self, others, or property, or other
35 conditions that may require behavioral intervention strategies; the
36 individual's ability to leave the boarding home unsupervised; and other
37 safety considerations that may pose a danger to the individual or

1 others, such as use of medical devices or the individual's ability to
2 smoke unsupervised, if smoking is permitted in the boarding home;

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

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

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

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

22 (k) Who has decision-making authority for the individual,
23 including: The presence of any advance directive, or other legal
24 document that will establish a substitute decision maker in the future;
25 the presence of any legal document that establishes a current
26 substitute decision maker; and the scope of decision-making authority
27 of any substitute decision maker.

28 (2) Complete a limited assessment of a resident's change of
29 condition when the resident's negotiated service agreement no longer
30 addresses the resident's current needs.

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

33 (1) The boarding home licensee shall complete a negotiated service
34 agreement using the preadmission assessment, initial resident service
35 plan, and full reassessment information obtained under sections 7 and
36 8 of this act. The licensee shall include the resident and the
37 resident's legal representative if any, or the resident's

1 representative if any, in the development of the negotiated service
2 agreement. If the resident is a medicaid client, the department's case
3 manager shall also be involved.

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

5 (a) Within thirty days of the date of move-in;

6 (b) As necessary following the annual full assessment of the
7 resident; and

8 (c) Whenever the resident's negotiated service agreement no longer
9 adequately addresses the resident's current needs and preferences.

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

12 (1) The boarding home licensee shall permit the resident, or the
13 resident's legal representative if any, to independently arrange for or
14 contract with a practitioner licensed under Title 18 RCW regulating
15 health care professions, or a home health, hospice, or home care agency
16 licensed under chapter 70.127 RCW, to provide on-site care and services
17 to the resident, consistent with RCW 18.20.160 and chapter 70.129 RCW.
18 The boarding home licensee may permit the resident, or the resident's
19 legal representative if any, to independently arrange for other persons
20 to provide on-site care and services to the resident.

21 (2) The boarding home licensee may establish policies and
22 procedures that describe limitations, conditions, or requirements that
23 must be met prior to an outside service provider being allowed on-site.

24 (3) When the resident or the resident's legal representative
25 independently arranges for outside services under subsection (1) of
26 this section, the licensee's duty of care, and any negligence that may
27 be attributed thereto, shall be limited to: The responsibilities
28 described under subsection (4) of this section, excluding supervising
29 the activities of the outside service provider; observation of the
30 resident for changes in overall functioning, consistent with RCW
31 18.20.280; notification to the person or persons identified in RCW
32 70.129.030 when there are observed changes in the resident's overall
33 functioning or condition; and appropriately responding to obtain needed
34 assistance when there are observable or reported changes in the
35 resident's physical or mental functioning.

36 (4) Consistent with RCW 18.20.280, the boarding home licensee shall
37 not be responsible for supervising the activities of the outside

1 service provider. When information sharing is authorized by the
2 resident or the resident's legal representative, the licensee shall
3 request such information and integrate relevant information from the
4 outside service provider into the resident's negotiated service
5 agreement, only to the extent that such information is actually shared
6 with the licensee.

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

9 ***By December 12, 2005, the department shall report on the payment
10 system for licensed boarding homes to the chairs of the senate and
11 house of representatives health care committees. The department shall
12 include in the report findings regarding the average costs of providing
13 care and services for the nonmetropolitan statistical areas,
14 metropolitan statistical areas, and King county to determine whether
15 the rates of payment within the designated areas are, on average,
16 reasonably related to the identified average costs. The cost data is
17 exempt from disclosure as provided in section 16 of this act. The
18 purpose of this cost-to-rate comparison study is to assess any cost
19 impacts that may be attributed to the implementation of new boarding
20 home rules occurring between September 1, 2004, and June 30, 2005. If
21 the department adopts new boarding home rules after June 30, 2005, the
22 report to the chairs of the senate and house of representatives health
23 care committees will instead be due by December 12, 2006.***

**Sec. 11 was vetoed. See message at end of chapter.*

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

26 No person operating a boarding home licensed under this chapter
27 shall admit to or retain in the boarding home any aged person requiring
28 nursing or medical care of a type provided by institutions licensed
29 under chapters 18.51, 70.41 or 71.12 RCW, except that when registered
30 nurses are available, and upon a doctor's order that a supervised
31 medication service is needed, it may be provided. Supervised
32 medication services, as defined by the department and consistent with
33 chapters 69.41 and 18.79 RCW, may include an approved program of self-
34 medication or self-directed medication. Such medication service shall
35 be provided only to (~~boarders~~) residents who otherwise meet all
36 requirements for residency in a boarding home. No boarding home shall

1 admit or retain a person who requires the frequent presence and
2 frequent evaluation of a registered nurse, excluding persons who are
3 receiving hospice care or persons who have a short-term illness that is
4 expected to be resolved within fourteen days.

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

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

14 (2) The medicaid resident's bed or unit shall be held for up to
15 twenty days. The per day bed or unit hold compensation amount shall be
16 seventy percent of the daily rate paid for the first seven days the bed
17 or unit is held for the resident who needs short-term nursing home care
18 or hospitalization. The rate for the eighth through the twentieth day
19 a bed is held shall be established in rule, but shall be no lower than
20 ten dollars per day the bed or unit is held.

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

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

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

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

35 Unless the context clearly requires otherwise, the definitions in
36 this section apply throughout this chapter.

- 1 (1) "Adult family home" means a home licensed under chapter 70.128
2 RCW.
- 3 (2) "Adult residential care" means services provided by a boarding
4 home that is licensed under chapter 18.20 RCW and that has a contract
5 with the department under RCW 74.39A.020 to provide personal care
6 services.
- 7 (3) "Assisted living services" means services provided by a
8 boarding home that has a contract with the department under RCW
9 74.39A.010 to provide personal care services, intermittent nursing
10 services, and medication administration services, and the resident is
11 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 social and health
23 services.
- 24 (7) "Enhanced adult residential care" means services provided by a
25 boarding home that is licensed under chapter 18.20 RCW and that has a
26 contract with the department under RCW 74.39A.010 to provide personal
27 care services, intermittent nursing services, and medication
28 administration services.
- 29 (8) "Functionally disabled person" is synonymous with chronic
30 functionally disabled and means a person who because of a recognized
31 chronic physical or mental condition or disease, including chemical
32 dependency, is impaired to the extent of being dependent upon others
33 for direct care, support, supervision, or monitoring to perform
34 activities of daily living. "Activities of daily living", in this
35 context, means self-care abilities related to personal care such as
36 bathing, eating, using the toilet, dressing, and transfer.
37 Instrumental activities of daily living may also be used to assess a
38 person's functional abilities as they are related to the mental

1 capacity to perform activities in the home and the community such as
2 cooking, shopping, house cleaning, doing laundry, working, and managing
3 personal finances.

4 (9) "Home and community services" means adult family homes, in-home
5 services, and other services administered or provided by contract by
6 the department directly or through contract with area agencies on aging
7 or similar services provided by facilities and agencies licensed by the
8 department.

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

18 (11) "Nursing home" means a facility licensed under chapter 18.51
19 RCW.

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

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

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

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

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

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

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

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

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

1 (b) Include personal care (~~and limited nursing services~~) and
2 other services that promote independence and self-sufficiency and aging
3 in place;

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

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

10 (4) When a facility contracts with the department for adult
11 residential care (~~and enhanced adult residential care~~), only services
12 and facility standards that are provided to or in behalf of the adult
13 residential care (~~or the enhanced adult residential care~~) client
14 shall be subject to the adult residential care (~~or enhanced adult
15 residential care~~) rules.

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

22 NEW SECTION. **Sec. 16.** A new section is added to chapter 42.17 RCW
23 to read as follows:

24 Data collected by the department of social and health services for
25 the reports required by section 11 of this act and section 8, chapter
26 231, Laws of 2003, except as compiled in the aggregate and reported to
27 the senate and house of representatives, is exempt from disclosure
28 under this chapter.

29 **Sec. 17.** RCW 18.20.030 and 2003 c 231 s 3 are each amended to read
30 as follows:

31 (1) After January 1, 1958, no person shall operate or maintain a
32 boarding home as defined in this chapter within this state without a
33 license under this chapter.

34 (2) A boarding home license is not required for the housing, or
35 services, that are customarily provided under landlord tenant
36 agreements governed by the residential landlord-tenant act, chapter

1 59.18 RCW, or when housing nonresident individuals who, without ongoing
2 assistance from the boarding home, initiate and arrange for services
3 provided by persons other than the boarding home licensee or the
4 licensee's contractor. This subsection does not prohibit the licensee
5 from furnishing written information concerning available community
6 resources to the nonresident individual or the individual's family
7 members or legal representatives. The licensee may not require the use
8 of any particular service provider.

9 (3) Residents receiving domiciliary care, directly or indirectly by
10 the boarding home, are not considered nonresident individuals for the
11 purposes of this section.

12 (4) A boarding home license is required when any person other than
13 an outside service provider, under section 10 of this act, or family
14 member:

15 (a) Assumes general responsibility for the safety and well-being of
16 a resident;

17 (b) Provides assistance with activities of daily living, either
18 directly or indirectly;

19 (c) Provides health support services, either directly or
20 indirectly; or

21 (d) Provides intermittent nursing services, either directly or
22 indirectly.

23 (5) A boarding home license is not required for ~~((emergency~~
24 ~~assistance when that emergency assistance is not provided on a frequent~~
25 ~~or routine basis to any one nonresident individual and the nonresident~~
26 ~~individual resides in independent senior housing, independent living~~
27 ~~units in continuing care retirement communities, independent living~~
28 ~~units having common ownership with a licensed boarding home, or other~~
29 ~~similar living situations including those subsidized by the department~~
30 ~~of housing and urban development)) one or more of the following~~

31 services that may be provided to a nonresident individual: (a)
32 Emergency assistance provided on an intermittent or nonroutine basis to
33 any nonresident individual; (b) systems employed by independent senior
34 housing, or independent living units in continuing care retirement
35 communities, to respond to the potential need for emergency services
36 for nonresident individuals; (c) infrequent, voluntary, and
37 nonscheduled blood pressure checks for nonresident individuals; (d)
38 nurse referral services provided at the request of a nonresident

1 individual to determine whether referral to an outside health care
2 provider is recommended; (e) making health care appointments at the
3 request of nonresident individuals; (f) preadmission assessment, at the
4 request of the nonresident individual, for the purposes of
5 transitioning to a licensed care setting; or (g) services customarily
6 provided under landlord tenant agreements governed by the residential
7 landlord-tenant act, chapter 59.18 RCW. The preceding services may not
8 include continual care or supervision of a nonresident individual
9 without a boarding home license.

10 NEW SECTION. Sec. 18. This act is necessary for the immediate
11 preservation of the public peace, health, or safety, or support of the
12 state government and its existing public institutions, and takes effect
13 immediately, except that sections 1 through 10 and 12 of this act take
14 effect September 1, 2004.

15 NEW SECTION. Sec. 19. The department of social and health
16 services shall adopt rules by September 1, 2004, for the implementation
17 of sections 1 through 10 and 12 of this act.

Passed by the Senate March 10, 2004.

Passed by the House March 3, 2004.

Approved by the Governor March 26, 2004, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State March 26, 2004.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 11,
Substitute Senate Bill No. 6225 entitled:

"AN ACT Relating to boarding homes;"

This bill improves laws governing the licensing of boarding homes, by
supporting flexibility in the level of care provided by boarding
homes while protecting residents' rights to quality care. It will
refine extensive boarding home rule reforms being implemented in
September.

Section 11 would have required the Department of Social and Health
Services to conduct a study to determine potential financial impacts
of these new rules and to determine the degree to which payments for
boarding home services are related to the actual costs of providing
services. This study would have largely duplicated a study currently
underway, as required by Chapter 231, Laws of 2003. The proposed
study in section 11 would have only covered an additional six months
experience and therefore would not likely produce meaningfully
different results.

Regretfully, the existing study is likely to have limitations,
resulting from an inability to collect the needed data. To be
valuable, such a study needs to address the complexities of data
gathering in a manner that is statistically sound, yet sensitive to

the boarding home industry's concerns regarding the proprietary nature of the data.

I recognize the merits of studying our boarding home payment system. Boarding homes provide services to support our state's vulnerable population. Therefore, I encourage the Legislature and industry to consider an alternative that will afford a more comprehensive approach.

For these reasons, I have vetoed section 11 of Substitute Senate Bill No. 6225.

With the exception of section 11, Substitute Senate Bill No. 6225 is approved."