

2 **2SSB 6544** - CONF REPT
3 By Conference Committee

4 ADOPTED 3/12/98

5 Strike everything after the enacting clause and insert the
6 following:

7 NEW SECTION. **Sec. 1.** The legislature finds that many residents
8 of long-term care facilities and recipients of in-home personal care
9 services are exceptionally vulnerable and their health and well-being
10 are heavily dependent on their caregivers. The legislature further
11 finds that the quality of staff in long-term care facilities is often
12 the key to good care. The need for well-trained staff and well-managed
13 facilities is growing as the state's population ages and the acuity of
14 the health care problems of residents increases. In order to better
15 protect and care for residents, the legislature directs that the
16 minimum training standards be reviewed for management and caregiving
17 staff, including those serving residents with special needs, such as
18 mental illness, dementia, or a developmental disability, that
19 management and caregiving staff receive appropriate training, and that
20 the training delivery system be improved.

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

23 (1) The department of social and health services shall review, in
24 coordination with the department of health, the nursing care quality
25 assurance commission, adult family home providers, boarding home
26 providers, in-home personal care providers, and long-term care
27 consumers and advocates, training standards for administrators and
28 resident caregiving staff. The departments and the commission shall
29 submit to the appropriate committees of the house of representatives
30 and the senate by December 1, 1998, specific recommendations on
31 training standards and the delivery system, including necessary
32 statutory changes and funding requirements. Any proposed enhancements
33 shall be consistent with this section, shall take into account and not
34 duplicate other training requirements applicable to boarding homes and
35 staff, and shall be developed with the input of boarding home and

1 resident representatives, health care professionals, and other vested
2 interest groups. Training standards and the delivery system shall be
3 relevant to the needs of residents served by the boarding home and
4 recipients of long-term in-home personal care services and shall be
5 sufficient to ensure that administrators and caregiving staff have the
6 skills and knowledge necessary to provide high quality, appropriate
7 care.

8 (2) The recommendations on training standards and the delivery
9 system developed under subsection (1) of this section shall be based on
10 a review and consideration of the following: Quality of care;
11 availability of training; affordability, including the training costs
12 incurred by the department of social and health services and private
13 providers; portability of existing training requirements; competency
14 testing; practical and clinical course work; methods of delivery of
15 training; standards for management and caregiving staff training; and
16 necessary enhancements for special needs populations and resident
17 rights training. Residents with special needs include, but are not
18 limited to, residents with a diagnosis of mental illness, dementia, or
19 developmental disability.

20 (3) The department of social and health services shall report to
21 the appropriate committees of the house of representatives and the
22 senate by December 1, 1998, on the cost of implementing the proposed
23 training standards for state-funded residents, and on the extent to
24 which that cost is covered by existing state payment rates.

25 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.128 RCW
26 to read as follows:

27 (1) The department of social and health services shall review, in
28 coordination with the department of health, the nursing care quality
29 assurance commission, adult family home providers, boarding home
30 providers, in-home personal care providers, and long-term care
31 consumers and advocates, training standards for providers, resident
32 managers, and resident caregiving staff. The departments and the
33 commission shall submit to the appropriate committees of the house of
34 representatives and the senate by December 1, 1998, specific
35 recommendations on training standards and the delivery system,
36 including necessary statutory changes and funding requirements. Any
37 proposed enhancements shall be consistent with this section, shall take
38 into account and not duplicate other training requirements applicable

1 to adult family homes and staff, and shall be developed with the input
2 of adult family home and resident representatives, health care
3 professionals, and other vested interest groups. Training standards
4 and the delivery system shall be relevant to the needs of residents
5 served by the adult family home and recipients of long-term in-home
6 personal care services and shall be sufficient to ensure that
7 providers, resident managers, and caregiving staff have the skills and
8 knowledge necessary to provide high quality, appropriate care.

9 (2) The recommendations on training standards and the delivery
10 system developed under subsection (1) of this section shall be based on
11 a review and consideration of the following: Quality of care;
12 availability of training; affordability, including the training costs
13 incurred by the department of social and health services and private
14 providers; portability of existing training requirements; competency
15 testing; practical and clinical course work; methods of delivery of
16 training; standards for management; uniform caregiving staff training;
17 necessary enhancements for special needs populations; and resident
18 rights training. Residents with special needs include, but are not
19 limited to, residents with a diagnosis of mental illness, dementia, or
20 developmental disability. Development of training recommendations for
21 developmental disabilities services shall be coordinated with the study
22 requirements in section 6 of this act.

23 (3) The department of social and health services shall report to
24 the appropriate committees of the house of representatives and the
25 senate by December 1, 1998, on the cost of implementing the proposed
26 training standards for state-funded residents, and on the extent to
27 which that cost is covered by existing state payment rates.

28 **Sec. 4.** RCW 70.128.070 and 1995 1st sp.s. c 18 s 22 are each
29 amended to read as follows:

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

31 ~~(2) At least sixty days prior to expiration of the license, the~~
32 ~~provider shall submit an application for renewal of a license. The~~
33 ~~department shall send the provider an application for renewal prior to~~
34 ~~this time. The department shall have the authority to investigate any~~
35 ~~information included in the application for renewal of a license.~~

36 ~~(3))~~ A license shall remain valid unless voluntarily surrendered,
37 suspended, or revoked in accordance with this chapter.

1 (2)(a) Homes applying for a license shall be inspected at the time
2 of licensure.

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

5 (c) The department may make an unannounced inspection of a licensed
6 home at any time to assure that the home and provider are in compliance
7 with this chapter and the rules adopted under this chapter.

8 ~~((+4))~~ (3) If the department finds that the home is not in
9 compliance with this chapter, it shall require the home to correct any
10 violations as provided in this chapter. ~~((If the department finds that
11 the home is in compliance with this chapter and the rules adopted under
12 this chapter, the department shall renew the license of the home.))~~

13 **Sec. 5.** RCW 70.129.030 and 1997 c 386 s 31 are each amended to
14 read as follows:

15 (1) The facility must inform the resident both orally and in
16 writing in a language that the resident understands of his or her
17 rights and all rules and regulations governing resident conduct and
18 responsibilities during the stay in the facility. The notification
19 must be made prior to or upon admission. Receipt of the information
20 must be acknowledged in writing.

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

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

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

29 (3) The facility shall only admit or retain individuals whose needs
30 it can safely and appropriately serve in the facility with appropriate
31 available staff and through the provision of reasonable accommodations
32 required by state or federal law. Except in cases of genuine
33 emergency, the facility shall not admit an individual before obtaining
34 a thorough assessment of the resident's needs and preferences. The
35 assessment shall contain, unless unavailable despite the best efforts
36 of the facility, the resident applicant, and other interested parties,
37 the following minimum information: Recent medical history; necessary
38 and contraindicated medications; a licensed medical or other health

1 professional's diagnosis, unless the individual objects for religious
2 reasons; significant known behaviors or symptoms that may cause concern
3 or require special care; mental illness, except where protected by
4 confidentiality laws; level of personal care needs; activities and
5 service preferences; and preferences regarding other issues important
6 to the resident applicant, such as food and daily routine.

7 (4) The facility must inform each resident in writing in a language
8 the resident or his or her representative understands before~~((, or at~~
9 ~~the time of))~~ admission, and at least once every twenty-four months
10 thereafter of: (a) Services, items, and activities customarily
11 available in the facility or arranged for by the facility as permitted
12 by the facility's license; (b) charges for those services, items, and
13 activities including charges for services, items, and activities not
14 covered by the facility's per diem rate or applicable public benefit
15 programs; and (c) the rules of facility operations required under RCW
16 70.129.140(2). Each resident and his or her representative must be
17 informed in writing in advance of changes in the availability or the
18 charges for services, items, or activities, or of changes in the
19 facility's rules. Except in emergencies, thirty days' advance notice
20 must be given prior to the change. However, for facilities licensed
21 for six or fewer residents, if there has been a substantial and
22 continuing change in the resident's condition necessitating
23 substantially greater or lesser services, items, or activities, then
24 the charges for those services, items, or activities may be changed
25 upon fourteen days' advance written notice.

26 ~~((+4))~~ (5) The facility must furnish a written description of
27 residents rights that includes:

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

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

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

36 ~~((+5))~~ (6) Notification of changes.

37 (a) A facility must immediately consult with the resident's
38 physician, and if known, make reasonable efforts to notify the

1 resident's legal representative or an interested family member when
2 there is:

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

5 (ii) A significant change in the resident's physical, mental, or
6 psychosocial status (i.e., a deterioration in health, mental, or
7 psychosocial status in either life-threatening conditions or clinical
8 complications).

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

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

13 (ii) A decision to transfer or discharge the resident from the
14 facility.

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

18 NEW SECTION. **Sec. 6.** The division of developmental disabilities
19 in the department of social and health services, in coordination with
20 advocacy, self-advocacy, and provider organizations, shall review
21 administrator and resident caregiver staff training standards for
22 agency contracted supported living services, including intensive tenant
23 support, tenant support, supportive living, and in-home personal care
24 services for children. The division and the advocates shall coordinate
25 specialty training recommendations with the larger study group
26 referenced in sections 2(1) and 3(1) of this act and submit specific
27 recommendations on training standards, including necessary statutory
28 changes and funding requirements to the appropriate committees of the
29 house of representatives and the senate by December 1, 1998.

30 NEW SECTION. **Sec. 7.** A new section is added to chapter 18.48 RCW
31 to read as follows:

32 Adult family homes have developed rapidly in response to the health
33 and social needs of the aging population in community settings,
34 especially as the aging population has increased in proportion to the
35 general population. The growing demand for elder care with a new focus
36 on issues affecting senior citizens, including persons with
37 developmental disabilities, mental illness, or dementia, has prompted

1 a growing professionalization of adult family home providers to address
2 quality care and quality of life issues consistent with standards of
3 accountability and regulatory safeguards for the health and safety of
4 the residents. The establishment of an advisory committee to the
5 department of health and the department of social and health services
6 under section 8 of this act formalizes a stable process for discussing
7 and considering these issues among residents and their advocates,
8 regulatory officials, and adult family home providers. The dialogue
9 among all stakeholders interested in maintaining a healthy option for
10 the aging population in community settings assures the highest regard
11 for the well-being of these residents within a benign and functional
12 regulatory environment.

13 NEW SECTION. **Sec. 8.** A new section is added to chapter 18.48 RCW
14 to read as follows:

15 (1) The secretary, in consultation with the secretary of social and
16 health services, shall appoint an advisory committee on matters
17 relating to the regulation, administrative rules, enforcement process,
18 staffing, and training requirements of adult family homes. The
19 advisory committee shall be composed of six members, of which two
20 members shall be resident advocates, three members shall represent
21 adult family home providers, and one member shall represent the public
22 and serve as chair. The members shall generally represent the
23 interests of aging residents, residents with dementia, residents with
24 mental illness, and residents with developmental disabilities
25 respectively. Members representing adult family home providers must
26 have at least two years' experience as licensees. The membership must
27 generally reflect urban and rural areas and western and eastern parts
28 of the state. A member may not serve more than two consecutive terms.

29 (2) The secretary may remove a member of the advisory committee for
30 cause as specified by rule adopted by the department. If there is a
31 vacancy, the secretary shall appoint a member to serve for the
32 remainder of the unexpired term.

33 (3) The advisory committee shall meet at the times and places
34 designated by the secretary and shall hold meetings during the year as
35 necessary to provide advice to the secretary on matters relating to the
36 regulation of adult family homes. A majority of the members may
37 request a meeting of the committee for any express purpose directly

1 related to the regulation of adult family homes. A majority of members
2 currently serving shall constitute a quorum.

3 (4) Establishment of the advisory committee shall not prohibit the
4 department of health from utilizing other advisory activities that the
5 department of health deems necessary for program development.

6 (5) Each member of the advisory committee shall serve without
7 compensation but may be reimbursed for travel expenses as authorized in
8 RCW 43.03.060.

9 (6) The secretary, members of the advisory committee, or
10 individuals acting on their behalf are immune from civil liability for
11 official acts performed in the course of their duties.

12 NEW SECTION. **Sec. 9.** A new section is added to chapter 70.128 RCW
13 to read as follows:

14 Adult family homes have developed rapidly in response to the health
15 and social needs of the aging population in community settings,
16 especially as the aging population has increased in proportion to the
17 general population. The growing demand for elder care with a new focus
18 on issues affecting senior citizens, including persons with
19 developmental disabilities, mental illness, or dementia, has prompted
20 a growing professionalization of adult family home providers to address
21 quality care and quality of life issues consistent with standards of
22 accountability and regulatory safeguards for the health and safety of
23 the residents. The establishment of an advisory committee to the
24 department of health and the department of social and health services
25 under section 8 of this act formalizes a stable process for discussing
26 and considering these issues among residents and their advocates,
27 regulatory officials, and adult family home providers. The dialogue
28 among all stakeholders interested in maintaining a healthy option for
29 the aging population in community settings assures the highest regard
30 for the well-being of these residents within a benign and functional
31 regulatory environment. The secretary shall be advised by an advisory
32 committee on adult family homes established under section 8 of this
33 act.

34 Establishment of the advisory committee shall not prohibit the
35 department of social and health services from utilizing other advisory
36 activities that the department of social and health services deems
37 necessary for program development.

1 **Sec. 10.** RCW 18.88A.210 and 1995 1st sp.s. c 18 s 46 are each
2 amended to read as follows:

3 (1) A nurse may delegate specific care tasks to nursing assistants
4 meeting the requirements of this section and who provide care to
5 individuals in community residential programs for the developmentally
6 disabled certified by the department of social and health services
7 under chapter 71A.12 RCW, to individuals residing in adult family homes
8 licensed under chapter 70.128 RCW, and to individuals residing in
9 boarding homes licensed under chapter 18.20 RCW contracting with the
10 department of social and health services to provide assisted living
11 services pursuant to RCW 74.39A.010.

12 (2) For the purposes of this section, "nursing assistant" means a
13 nursing assistant-registered or a nursing assistant-certified. Nothing
14 in this section may be construed to affect the authority of nurses to
15 delegate nursing tasks to other persons, including licensed practical
16 nurses, as authorized by law.

17 (3) Before commencing any specific nursing care tasks authorized
18 under this chapter, the nursing assistant must (a) provide to the
19 delegating nurse a certificate of completion issued by the department
20 of social and health services indicating the completion of basic core
21 training as provided in this section, (b) be regulated by the
22 department of health pursuant to this chapter, subject to the uniform
23 disciplinary act under chapter 18.130 RCW, and (c) meet any additional
24 training requirements identified by the nursing care quality assurance
25 commission and authorized by this section.

26 (4) A nurse may delegate the following care tasks:

27 (a) Oral and topical medications and ointments;

28 (b) Nose, ear, eye drops, and ointments;

29 (c) Dressing changes and catheterization using clean techniques as
30 defined by the nursing care quality assurance commission;

31 (d) Suppositories, enemas, ostomy care;

32 (e) Blood glucose monitoring;

33 (f) Gastrostomy feedings in established and healed condition.

34 (5) On or before September 1, 1995, the nursing care quality
35 assurance commission, in conjunction with the professional nursing
36 organizations, shall develop rules for nurse delegation protocols and
37 by December 5, 1995, identify training beyond the core training that is
38 deemed necessary for the delegation of complex tasks and patient care.

1 (6) Nursing task delegation protocols are not intended to regulate
2 the settings in which delegation may occur but are intended to ensure
3 that nursing care services have a consistent standard of practice upon
4 which the public and profession may rely and to safeguard the authority
5 of the nurse to make independent professional decisions regarding the
6 delegation of a task. Protocols shall include at least the following:

7 (a) Ensure that determination of the appropriateness of delegation
8 of a nursing task is at the discretion of the nurse;

9 (b) Allow delegation of a nursing care task only for patients who
10 have a stable and predictable condition. "Stable and predictable
11 condition" means a situation, as defined by rule by the nursing care
12 quality assurance commission, in which the patient's clinical and
13 behavioral status is known and does not require frequent presence and
14 evaluation of a registered nurse;

15 (c) ~~Assure that the ((delegations of nursing tasks pursuant to this~~
16 ~~chapter have the written informed consent of the patient consistent~~
17 ~~with the provisions for informed consent under chapter 7.70 RCW, as~~
18 ~~well as with the consent of the delegating nurse and nursing assistant.~~
19 ~~The delegating nurse shall inform patients of the level of training of~~
20 ~~all care providers in the setting)) initial delegating nurse obtains~~
21 ~~written consent to the nurse delegation process from the patient or a~~
22 ~~person authorized under RCW 7.70.065. Written consent is only~~
23 ~~necessary at the initial use of the nurse delegation process for each~~
24 ~~patient and is not necessary for task additions or changes or if a~~
25 ~~different nurse or nursing assistant will be participating in the~~
26 ~~process. The written consent must include at a minimum the following:~~

27 (i) A list of the tasks that could potentially be delegated per RCW
28 18.88A.210; and

29 (ii) A statement that a nursing assistant through the nurse
30 delegation process will be performing a task that would previously have
31 been performed by a registered or licensed practical nurse;

32 (d) Verify that the nursing assistant has completed the core
33 training;

34 (e) Require assessment by the nurse of the ability and willingness
35 of the nursing assistant to perform the delegated nursing task in the
36 absence of direct nurse supervision and to refrain from delegation if
37 the nursing assistant is not able or willing to perform the task;

38 (f) Require the nurse to analyze the complexity of the nursing task
39 that is considered for delegation and determine the appropriate level

1 of training and any need of additional training for the nursing
2 assistant;

3 (g) Require the teaching of the nursing care task to the nursing
4 assistant (~~(including)~~) utilizing one or more of the following: (i)
5 Verification of competency via return demonstration (~~(under observation~~
6 ~~while performing the task)~~); (ii) other methods for verification of
7 competency to perform the nursing task; or (iii) assurance that the
8 nursing assistant is competent to perform the nursing task as a result
9 of systems in place in the community residential program for the
10 developmentally disabled, adult family home, or boarding home providing
11 assisted living services;

12 (h) Require a plan of nursing supervision and reevaluation of the
13 delegated nursing task. "Nursing supervision" means that the
14 registered nurse monitors by direct observation or by whatever means is
15 deemed appropriate by the registered nurse the skill and ability of the
16 nursing assistant to perform delegated nursing tasks. Frequency of
17 supervision is at the discretion of the registered nurse but shall
18 occur at least every sixty days;

19 (i) Require instruction to the nursing assistant that the delegated
20 nursing task is specific to a patient and is not transferable;

21 (j) Require documentation and written instruction related to the
22 delegated nursing task be provided to the nursing assistant and a copy
23 maintained in the patient record;

24 (k) Ensure that the nursing assistant is prepared to effectively
25 deal with the predictable outcomes of performing the nursing task;

26 (l) Include in the delegation of tasks an awareness of the nature
27 of the condition requiring treatment, risks of the treatment, side
28 effects, and interaction of prescribed medications;

29 (m) Require documentation in the patient's record of the rationale
30 for delegating or not delegating nursing tasks.

31 (7) A basic core training curriculum on providing care for
32 individuals in community residential programs for the developmentally
33 disabled certified by the department of social and health services
34 under chapter 71A.12 RCW shall be in addition to the training
35 requirements specified in subsection (5) of this section. Basic core
36 training shall be developed and adopted by rule by the secretary of the
37 department of social and health services. The department of social and
38 health services shall appoint an advisory panel to assist in the

1 development of core training comprised of representatives of the
2 following:

3 (a) The division of developmental disabilities;

4 (b) The nursing care quality assurance commission;

5 (c) Professional nursing organizations;

6 (d) A state-wide organization of community residential service
7 providers whose members are programs certified by the department under
8 chapter 71A.12 RCW.

9 (8) A basic core training curriculum on providing care to residents
10 in residential settings licensed under chapter 70.128 RCW, or in
11 assisted living pursuant to RCW 74.39A.010 shall be mandatory for
12 nursing assistants prior to assessment by a nurse regarding the ability
13 and willingness to perform a delegated nursing task. Core training
14 shall be developed and adopted by rule by the secretary of the
15 department of social and health services, in conjunction with an
16 advisory panel. The advisory panel shall be comprised of
17 representatives from, at a minimum, the following:

18 (a) The nursing care quality assurance commission;

19 (b) Professional nurse organizations;

20 (c) A state-wide association of community residential service
21 providers whose members are programs certified by the department under
22 chapter 71A.12 RCW;

23 (d) Aging consumer groups;

24 (e) Associations representing homes licensed under chapters 70.128
25 and 18.20 RCW; and

26 (f) Associations representing home health, hospice, and home care
27 agencies licensed under chapter 70.127 RCW.

28 **Sec. 11.** RCW 18.88A.230 and 1997 c 275 s 6 are each amended to
29 read as follows:

30 (1) The nurse and nursing assistant shall be accountable for their
31 own individual actions in the delegation process. Nurses acting within
32 the protocols of their delegation authority shall be immune from
33 liability for any action performed in the course of their delegation
34 duties. Nursing assistants following written delegation instructions
35 from registered nurses performed in the course of their accurately
36 written, delegated duties shall be immune from liability.

37 (2) No person may coerce a nurse into compromising patient safety
38 by requiring the nurse to delegate if the nurse determines it is

1 inappropriate to do so. Nurses shall not be subject to any employer
2 reprisal or disciplinary action by the Washington nursing care quality
3 assurance commission for refusing to delegate tasks or refusing to
4 provide the required training for delegation if the nurse determines
5 delegation may compromise patient safety. Nursing assistants shall not
6 be subject to any employer reprisal or disciplinary action by the
7 nursing care quality assurance commission for refusing to accept
8 delegation of a nursing task based on patient safety issues. No
9 community residential program, adult family home, or boarding home
10 contracting to provide assisted-living services may discriminate or
11 retaliate in any manner against a person because the person made a
12 complaint or cooperated in the investigation of a complaint.

13 (3) The department of social and health services (~~shall~~) may
14 impose a civil fine of not less than two hundred fifty dollars nor more
15 than one thousand dollars on a community residential program, adult
16 family home, or boarding home under chapter 18, Laws of 1995 1st sp.
17 sess. that knowingly permits an employee to perform a nursing task
18 except as delegated by a nurse pursuant to chapter 18, Laws of 1995 1st
19 sp. sess.

20 **Sec. 12.** 1995 1st sp.s. c 18 s 54 (uncodified) is amended to read
21 as follows:

22 A special legislative task force is established to monitor
23 implementation of sections 45 through 53 of this act. The task force
24 shall consist of four members from the house of representatives, no
25 more than two of whom shall be members of the same caucus, who shall be
26 appointed by the speaker of the house of representatives, and four
27 members from the senate, no more than two of whom shall be members of
28 the same caucus, who shall be appointed by the president of the senate.
29 The task force shall:

30 (1) Review the proposed nurse delegation protocols developed by the
31 nursing care quality assurance commission;

32 (2) Review the proposed core and specialized training curricula
33 developed by the department of social and health services and by the
34 nursing care quality assurance commission;

35 (3) Review the program and reimbursement policies, and the
36 identified barriers to nurse delegation, developed by the department of
37 health and department of social and health services;

1 (4) Submit an interim report of its findings and recommendations on
2 the above actions to the legislature by January 1, 1996;

3 (5) During 1996, conduct hearings to assess the effectiveness with
4 which the delegation protocols, the core training, and nurse oversight
5 are being implemented, and their impact on patient care and quality of
6 life;

7 (6) Review and approve the proposed study designs;

8 (7) By February 1, 1997, recommend to the legislature a mechanism
9 and time frame for extending nurse delegation provisions similar to
10 those described in this act to persons residing in their own homes;

11 (8) During ((1997)) 1998, receive interim reports on the findings
12 of the studies conducted in accordance with this act, and conduct
13 additional fact-finding hearings on the implementation and impact of
14 the nurse delegation provisions of sections 45 through 53 of this act.

15 The office of program research and senate committee services shall
16 provide staff support to the task force. The department of health, the
17 department of social and health services, and the nursing care quality
18 assurance commission shall provide technical support as needed. The
19 task force shall cease to exist on January 1, ((1998)) 1999, unless
20 extended by act of the legislature.

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

23 (1) Powers and duties regarding boarding homes, previously assigned
24 under this chapter to the department of health and to the secretary of
25 health, are by this section transferred to the department of social and
26 health services and to the secretary of social and health services,
27 respectively. This section further provides that, regarding boarding
28 homes, all references within the Revised Code of Washington to the
29 department of health and to the secretary of health mean the department
30 of social and health services and the secretary of social and health
31 services, respectively.

32 (2)(a) The department of health shall deliver to the department of
33 social and health services all reports, documents, surveys, books,
34 records, data, files, papers, and written material pertaining to
35 boarding homes and the powers, functions, and duties transferred by
36 this section. The department of health shall make available to the
37 department of social and health services all cabinets, furniture,
38 office equipment, motor vehicles, and other tangible property employed

1 by the department of health in carrying out the powers, functions, and
2 duties transferred by this section. The department of health shall
3 assign to the department of social and health services all funds,
4 credits, and other assets that the department of health possesses in
5 connection with the power, functions, and duties transferred by this
6 section.

7 (b) On the effective date of this section, the department of health
8 shall transfer to the department of social and health services any
9 appropriations and license fees made to or possessed by the department
10 of health for carrying out the powers, functions, and duties
11 transferred by this section.

12 (c) When a question arises regarding the transfer of personnel,
13 funds, books, documents, records, papers, files, equipment, or other
14 tangible property used or held in the exercise of the powers,
15 functions, and duties transferred by this section, the director of
16 financial management shall determine the proper allocation and shall
17 certify that determination to the state agencies concerned.

18 (3) The department of social and health services shall continue and
19 shall act upon all rules and pending business before the department of
20 health pertaining to the powers, functions, and duties transferred by
21 this section.

22 (4) The transfer of powers, functions, duties, and personnel from
23 the department of health to the department of social and health
24 services, as mandated by this section, will not affect the validity of
25 any act performed by the department of health regarding boarding homes
26 before the effective date of this section.

27 (5) If apportionments of budgeted funds are required because of the
28 transfers mandated by this section, the director of financial
29 management shall certify the apportionments to the agencies affected,
30 the state auditor, and the state treasurer. Each of these shall make
31 the necessary transfers and adjustments in funds, appropriation
32 accounts, and equipment records in accordance with the certification.

33 (6) Nothing contained in this section alters any existing
34 collective bargaining unit or the provisions of any existing collective
35 bargaining agreement until the agreement expires or until the
36 bargaining unit is modified by action of the personnel board as
37 provided by law.

1 **Sec. 14.** RCW 18.20.020 and 1991 c 3 s 34 are each amended to read
2 as follows:

3 As used in this chapter:

4 (1) "Aged person" means a person of the age sixty-five years or
5 more, or a person of less than sixty-five years who by reason of
6 infirmity requires domiciliary care.

7 (2) "Boarding home" means any home or other institution, however
8 named, which is advertised, announced or maintained for the express or
9 implied purpose of providing board and domiciliary care to three or
10 more aged persons not related by blood or marriage to the operator. It
11 shall not include facilities certified as group training homes pursuant
12 to RCW 71A.22.040, nor any home, institution or section thereof which
13 is otherwise licensed and regulated under the provisions of state law
14 providing specifically for the licensing and regulation of such home,
15 institution or section thereof. Nor shall it include any independent
16 senior housing, independent living units in continuing care retirement
17 communities, or other similar living situations including those
18 subsidized by the department of housing and urban development.

19 (3) "Person" means any individual, firm, partnership, corporation,
20 company, association, or joint stock association, and the legal
21 successor thereof.

22 (4) "Secretary" means the secretary of social and health services.

23 (5) "Department" means the state department of social and health
24 services.

25 (6) "Authorized department" means any city, county, city-county
26 health department or health district authorized by the secretary ((of
27 health)) to carry out the provisions of this chapter.

28 **Sec. 15.** RCW 18.20.190 and 1995 1st sp.s. c 18 s 18 are each
29 amended to read as follows:

30 (1) The department of social and health services is authorized to
31 take one or more of the actions listed in subsection (2) of this
32 section in any case in which the department finds that a boarding home
33 provider has:

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

36 (b) Operated a boarding home without a license or under a revoked
37 license;

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

5 (d) Willfully prevented or interfered with any inspection or
6 investigation by the department.

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

9 (a) Refuse to issue a license;

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

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

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

16 (e) Suspend admissions to the boarding home by imposing stop
17 placement.

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

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

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

33 The secretary may adopt rules and policies as necessary to entitle
34 the state to participate in federal funding programs and opportunities
35 and to facilitate state and federal cooperation in programs under the
36 department's jurisdiction. The secretary shall ensure that any
37 internal reorganization carried out under the terms of this chapter
38 complies with prerequisites for the receipt of federal funding for the

1 various programs under the department's control. When interpreting any
2 department-related section or provision of law susceptible to more than
3 one interpretation, the secretary shall construe that section or
4 provision in the manner most likely to comply with federal laws and
5 rules entitling the state to receive federal funds for the various
6 programs of the department. If any law or rule dealing with the
7 department is ruled to be in conflict with federal prerequisites to the
8 allocation of federal funding to the state, the department, or its
9 agencies, the secretary shall declare that law or rule inoperative
10 solely to the extent of the conflict.

11 NEW SECTION. **Sec. 17.** (1) The governor shall establish a joint
12 legislative and executive task force on long-term care, safety,
13 quality, and oversight. The joint task force shall consist of seven
14 members. The governor shall appoint three members that include: (a)
15 The secretary of the department of social and health services or his or
16 her designee; (b) the secretary of the department of health or his or
17 her designee; and (c) the state long-term care ombudsman. Four
18 legislative members shall serve on the joint task force as ex officio
19 members and include: Two members of the senate appointed by the
20 president of the senate, one of whom shall be a member of the majority
21 caucus and one whom shall be a member of the minority caucus; and two
22 members of the house of representatives appointed by the speaker of the
23 house of representatives, one of whom shall be a member of the majority
24 caucus and one whom shall be a member of the minority caucus. Primary
25 staff assistance to the joint task force shall be provided by the
26 office of financial management with assistance, as directed by
27 legislative members, by the health care committee of the house of
28 representatives office of program research and the senate health and
29 long-term care committee of senate committee services.

30 (2) The joint task force shall elect a chair and vice-chair. The
31 chair shall serve a one-year term as the chair of the joint task force.
32 The following year, the previously elected vice-chair shall serve as
33 the chair of the joint task force and a new vice-chair shall be elected
34 by the members of the joint task force.

35 (3) The joint task force shall have the ability to create advisory
36 committees and appoint individuals from a variety of disciplines and
37 perspectives including but not limited to patient and resident
38 advocates and representatives of provider organizations, to assist the

1 joint task force with specific issues related to chapter . . . , Laws of
2 1998 (this act).

3 (4) The joint task force may hold meetings, including hearings, to
4 receive public testimony, which shall be open to the public in
5 accordance with law. Records of the joint task force shall be subject
6 to public disclosure in accordance with law. Members shall not receive
7 compensation, but may be reimbursed for travel expenses as authorized
8 under RCW 43.03.050 and 43.03.060. Advisory committee members, if
9 appointed, shall not receive compensation or reimbursement for travel
10 or expenses.

11 (5) The joint task force shall:

12 (a) Review all long-term care quality and safety standards for all
13 long-term care facilities and services developed, revised, and enforced
14 by the department of social and health services;

15 (b) In cooperation with aging and adult services, the division of
16 developmental disabilities, and the division of mental health and the
17 department of health, develop recommendations to simplify, strengthen,
18 reduce, or eliminate rules, procedures, and burdensome paperwork that
19 prove to be barriers to providing the highest standard of client
20 safety, effective quality of care, effective client protections, and
21 effective coordination of direct services;

22 (c) Review the need for reorganization and reform of long-term care
23 administration and service delivery, including administration and
24 services provided for the aged, for those with mental health needs, and
25 for the developmentally disabled, and recommend the establishment of a
26 single long-term care department or a division of long-term care within
27 the department of social and health services;

28 (d) Suggest cost-effective methods for reallocating funds to unmet
29 needs in direct services;

30 (e) List all nonmeans tested programs and activities funded by the
31 federal older Americans act and state-funded senior citizens act or
32 other such state-funded programs, and recommend methods for integrating
33 such services into existing long-term care programs for the
34 functionally disabled;

35 (f) Suggest methods to establish a single point of entry for
36 service eligibility and delivery for all functionally disabled persons;

37 (g) Evaluate the need for long-term care training and review all
38 long-term care training and education programs conducted by the
39 department of social and health services, and suggest modifications to

1 enhance client safety, to create greater access to training through the
2 use of innovative technology, to reduce training costs, to improve
3 coordination of training between the appropriate divisions and
4 departments and, to enhance the overall uniformity of the long-term
5 care training system;

6 (h) Evaluate the current system used by the department of social
7 and health services for placement of functionally disabled clients,
8 including aging, mentally ill, and developmentally disabled persons,
9 into long-term care settings and services and assess the capacity of
10 each long-term care service or setting to appropriately meet the health
11 and safety needs of functionally disabled clients or residents referred
12 to each service or setting;

13 (i) Evaluate the need for uniform client assessments for
14 determining functional long-term care needs of all persons who receive
15 state-funded, long-term care services;

16 (j) Evaluate the success of the transfer of boarding home
17 responsibilities outlined in chapter . . . , Laws of 1998 (this act) and
18 recommend if any further administrative changes should be made; and

19 (k) Evaluate the need to establish a dementia and Alzheimer's
20 certification requirement for long-term care facilities who choose to
21 provide care to persons who have been diagnosed with Alzheimer's or a
22 related dementia. The evaluation shall also identify the level of
23 disability a resident or client must have before the resident or client
24 is considered for care in a certified long-term care Alzheimer's
25 facility; and

26 (l) Evaluate the effect of requiring regular visits to bedbound
27 patients of boarding homes and adult family homes by licensed
28 practitioners.

29 (6) The joint task force shall report its initial findings and
30 recommendations to the governor and appropriate committees of the
31 legislature by January 1, 1999. The joint task force shall report its
32 final findings and recommendations to the governor and appropriate
33 committees of the legislature by December 12, 1999.

34 **Sec. 18.** RCW 18.20.160 and 1985 c 297 s 2 are each amended to read
35 as follows:

36 (1) No person operating a boarding home licensed under this chapter
37 shall admit to or retain in the boarding home any aged person requiring
38 nursing or medical care of a type provided by institutions licensed

1 under chapters 18.51, 70.41 or 71.12 RCW, except that when registered
2 nurses are available, and upon a doctor's order that a supervised
3 medication service is needed, it may be provided. Supervised
4 medication services, as defined by the department, may include an
5 approved program of self-medication or self-directed medication. Such
6 medication service shall be provided only to boarders who otherwise
7 meet all requirements for residency in a boarding home.

8 (2)(a) Notwithstanding any provision contained in this section, in
9 no case shall a resident be bedbound, as a result of illness or
10 disease, for any continuous period of time exceeding ten days, unless
11 a licensed practitioner has seen the resident and assessed the
12 resident's medical condition, prescribed a plan of care, and determined
13 that a continued stay in the boarding home is appropriate.

14 (b) Residents who continue to be bedbound for more than ten
15 consecutive days shall be seen by a licensed practitioner at least
16 every thirty days, counting from the date of the initial bedbound-
17 related licensed practitioner visit, for as long as the resident
18 continues to be bedbound.

19 (c) The licensed practitioner and the boarding home shall document
20 each visit and the licensed practitioner shall, at each visit,
21 prescribe a plan of care and redetermine the appropriateness of the
22 resident's continued stay in the boarding home.

23 (3) For the purposes of this section, an illness or disease does
24 not include any illness or disease for which the resident has elected
25 to receive hospice care and chooses to remain in the boarding home.
26 When the resident elects to receive hospice care, an outside licensed
27 agency is responsible for performing timely and appropriate visits and
28 for developing a plan of care.

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

31 For the purposes of RCW 18.20.160, "licensed practitioner" includes
32 a physician licensed under chapter 18.71 RCW, a registered nurse
33 licensed under chapter 18.79 RCW, an osteopathic physician and surgeon
34 licensed under chapter 18.57 RCW, an advanced registered nurse
35 practitioner licensed under chapter 18.79 RCW, or a physician assistant
36 licensed under chapter 18.71A RCW.

1 **Sec. 20.** RCW 70.128.060 and 1995 c 260 s 4 are each amended to
2 read as follows:

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

6 (2) The department shall issue a license to an adult family home if
7 the department finds that the applicant and the home are in compliance
8 with this chapter and the rules adopted under this chapter, unless (a)
9 the applicant has prior violations of this chapter relating to the
10 adult family home subject to the application or any other adult family
11 home, or of any other law regulating residential care facilities within
12 the past five years that resulted in revocation or nonrenewal of a
13 license; or (b) the applicant has a history of significant
14 noncompliance with federal, state, or local laws, rules, or regulations
15 relating to the provision of care or services to vulnerable adults or
16 to children.

17 (3) The license fee shall be submitted with the application.

18 (4) The department shall serve upon the applicant a copy of the
19 decision granting or denying an application for a license. An
20 applicant shall have the right to contest denial of his or her
21 application for a license as provided in chapter 34.05 RCW by
22 requesting a hearing in writing within twenty-eight days after receipt
23 of the notice of denial.

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

30 (6)(a) The department shall license an adult family home for the
31 maximum level of care that the adult family home may provide. However,
32 in no case shall the adult family home admit or retain residents who
33 are bedbound, as a result of illness or disease, for any continuous
34 period of time exceeding ten days, unless a licensed practitioner has
35 seen the resident to assess their medical condition, prescribed a plan
36 of care, and determined that a continued stay in the adult family home
37 is appropriate.

38 (b) Residents who continue to be bedbound for more than ten
39 consecutive days shall be seen by a licensed practitioner at least

1 every thirty days, counting from the date of the initial bedbound-
2 related licensed practitioner visit, for as long as the resident
3 continues to be bedbound.

4 (c) The licensed practitioner and adult family home shall document
5 each visit and the licensed practitioner shall, at each visit,
6 prescribe a plan of care and redetermine the continued appropriateness
7 of the resident remaining in the adult family home.

8 (d) The department shall further define, in rule, license levels
9 based upon the education, training, and caregiving experience of the
10 licensed provider or staff.

11 (e) For the purposes of this section, an illness or disease does
12 not include any illness or disease for which the resident has elected
13 to receive hospice care and chooses to remain in the adult family home.
14 When the resident elects to receive hospice care, an outside licensed
15 agency is responsible for performing timely and appropriate visits and
16 for developing a plan of care.

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

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

22 (9) The license fee shall be set at fifty dollars per year for each
23 home. The licensing fee is due each year within thirty days of the
24 anniversary date of the license. A fifty dollar processing fee shall
25 also be charged each home when the home is initially licensed.

26 NEW SECTION. Sec. 21. A new section is added to chapter 70.128
27 RCW to read as follows:

28 For the purposes of RCW 70.128.060, "licensed practitioner"
29 includes a physician licensed under chapter 18.71 RCW, a registered
30 nurse licensed under chapter 18.79 RCW, an osteopathic physician and
31 surgeon licensed under chapter 18.57 RCW, an advanced registered nurse
32 practitioner licensed under chapter 18.79 RCW, or a physician assistant
33 licensed under chapter 18.71A RCW.

34 NEW SECTION. Sec. 22. The sum of fifty thousand dollars, or as
35 much thereof as may be necessary, is appropriated for the fiscal year
36 ending June 30, 1999, from the general fund to the office of financial

1 management solely for the purposes of implementing section 17 of this
2 act.

3 NEW SECTION. **Sec. 23.** Section 5 of this act takes effect July 1,
4 1998.

5 NEW SECTION. **Sec. 24.** (1) Sections 13 through 16 of this act
6 expire July 1, 2000, unless reauthorized by the legislature.

7 (2) Section 17 of this act expires December 12, 1999.

8 NEW SECTION. **Sec. 25.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

12 NEW SECTION. **Sec. 26.** Except for section 5 of this act, this act
13 is necessary for the immediate preservation of the public peace,
14 health, or safety, or support of the state government and its existing
15 public institutions, and takes effect immediately."

16 **2SSB 6544** - CONF REPT
17 By Conference Committee

18 ADOPTED 3/12/98

19 On page 1, line 1 of the title, after "care;" strike the remainder
20 of the title and insert "amending RCW 70.128.070, 70.129.030,
21 18.88A.210, 18.88A.230, 18.20.020, 18.20.190, 18.20.160, and
22 70.128.060; amending 1995 1st sp.s. c 18 s 54 (uncodified); adding new
23 sections to chapter 18.20 RCW; adding new sections to chapter 70.128
24 RCW; adding new sections to chapter 18.48 RCW; creating new sections;
25 making an appropriation; providing an effective date; providing an
26 expiration date; providing a contingent expiration date; and declaring
27 an emergency."

--- END ---