

VETO MESSAGE ON HB 1850-S2

May 16, 1997

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington
Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 104, 204, 207, 208, 305, 501, 505, 506, 530(1) and 530(3), Engrossed Second Substitute House Bill No. 1850 entitled:

"AN ACT Relating to the long-term care reorganization and standards of care reform act;"

Section 104

Section 104 creates a joint legislative committee on long-term care oversight with no termination date. The legislature has always established joint committees by resolution, not by statute. A resolution is the appropriate vehicle to create such a committee. For that reason, I have vetoed section 104.

Section 204

Section 204 directs the Department of Social and Health Services ("DSHS") to perform, within available funds, comprehensive assessments of the needs and preferences (including all medical history information, level of personal care needs, and service preferences) of all potential residents of long-term care facilities, whether funded by the state or privately. I have vetoed section 204 because no funding was provided for DSHS to perform assessments on privately funded clients.

Section 207

Section 207 would direct DSHS to make reasonable efforts to contract for at least 180 clients, who would otherwise be served in nursing or assisted living facilities, to instead be served in enhanced adult residential care settings. The section would also tie the payment rate for these enhanced adult residential care clients to a percentage of the statewide average nursing home rate. The 1997-99 budget anticipates the Community Options Program Entry System (COPEs) adult residential care program will exceed 800 cases. All of these cases could arguably meet the definition of "enhanced adult residential care", and would thus be eligible for the enhanced rate required under this section. The budget does not provide funds to pay a rate equivalent of 35-40 percent of the nursing home rate for this population.

Additionally, tying the payment rate of one community service to the Medicaid nursing home payment rate would create a situation where one community option would receive rate increases in excess of other equally important community services. For these reasons I have vetoed section 207.

Section 208

Section 208 would allow hospitals the choice not to

participate with DSHS in discharge planning. This section weakens the department's ability to comply with the objectives contained in the 1997-99 budget to reduce the Medicaid nursing facility caseload by 480 residents. In cooperating with all hospital discharge planners, department staff are able to initiate financial eligibility determinations and expedite long-term care service authorization and payment. The current partnership between DSHS and hospitals has maximized consumer opportunity to choose the most appropriate long-term care setting. For these reasons I have vetoed section 208.

Section 305

Section 305 would direct DSHS to report quarterly to all clients on the types of services used, and charges for the services that would be charged against their estates. I have vetoed this section because no funding was provided and it would not be fair to create an expectation for clients that such reports would be issued.

Section 501

Section 501 would permit the Department of Health ("DOH") to develop a plan for a pilot program for accrediting boarding homes through a nationally recognized private accreditation organization. I know of no recognized accreditation organization that provides accreditation for boarding homes, or intends to begin doing so. Since DOH would be unable to develop the plan, I have vetoed this section.

Sections 505 and 506

Sections 505 and 506 deal with the nursing home Resident Protection Program operated by DSHS that is part of the Medicaid and Medicare Survey and Certification program. These provisions would require DSHS to refer complaints against licensed, certified or registered health care providers to the appropriate disciplining authority, such as the Nursing Commission or the Medical Quality Assurance Commission, to pursue disciplinary proceedings according to federal timelines and requirements.

DSHS has been operating since September 1995 under a corrective action plan with the Health Care Financing Administration ("HCFA") because of the failure of a previous program that was much like the proposal in Sections 505 and 506. That previous program was deemed out of compliance with federal requirements. HCFA would have to approve the changes made to the program by this legislation and has indicated concern about returning to the old system. These sections would not result in improved services to the residents in nursing homes, would require inefficient and duplicative systems, and would be more costly than current service delivery.

DSHS and DOH are working together to design a system that enhances the opportunity for swift processing and fair adjudication of complaints of abuse, neglect and misappropriation of resident

property. I support this effort and believe it will bring about a more coherent system. For the above reasons, I have vetoed sections 505 and 506.

Section 530

I have vetoed subsections one and three of Section 530, which are repealers. Subsection 1 repeals the statutory authority for respite care, a valued community care option. Subsection 3 repeals the legislative policy framework that promotes expansion and continuous improvement of home and community services. This is an important part of the overall strategy to provide choices to clients needing long-term care services, and should remain in place.

For these reasons, I have vetoed sections 104, 204, 207, 208, 305, 501, 505, 506, 530(1) and 530(3) of Engrossed Second Substitute House Bill No. 1850.

Sections 213 and 214 of E2SHB 1850 provide for more vigorous inspection of boarding homes and more stringent enforcement once violations are identified. I strongly support these measures to protect the health and safety of boarding home residents. DOH has been authorized in the budget to raise fees to implement this expanded program, and there will need to be expanded appropriation authority in the supplemental budget. I am directing DOH to submit an implementation plan no later than July 1, 1997, outlining how it will phase in the expanded program.

With the exception of sections 104, 204, 207, 208, 305, 501, 505, 506, 530(1) and 530(3), Engrossed Second Substitute House Bill No. 1850 is approved.

Respectfully submitted,
Gary Locke
Governor