

2 **HB 2510** - S COMM AMD

3 By Committee on Health & Long-Term Care

4 ADOPTED 3/1/00

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

7 "**Sec. 1.** RCW 70.127.010 and 1999 c 190 s 1 are each amended to
8 read as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

11 (1) "Administrator" means an individual responsible for managing
12 the operation of an agency.

13 (2) "Department" means the department of health.

14 ~~((+2))~~ (3) "Director of clinical services" means an individual
15 responsible for nursing, therapy, nutritional, social, and related
16 services that support the plan of care provided in home health and
17 hospice agencies.

18 (4) "Family" means individuals who are important to, and designated
19 by, the patient or client and who need not be relatives.

20 (5) "Home care agency" means a ~~((private or public agency or~~
21 ~~organization that administers or provides))~~ person administering or
22 providing home care services directly or through a contract arrangement
23 to ((ill, disabled, or infirm persons)) individuals in places of
24 temporary or permanent residence.

25 ~~((+3))~~ (6) "Home care services" means ~~((personal care services,~~
26 ~~homemaker services, respite care services, or any other))~~ nonmedical
27 services and assistance provided to ill, disabled, ((or)) infirm
28 ((persons which services enable these persons to remain in their own
29 residences consistent with their desires, abilities, and safety)), or
30 vulnerable individuals that enable them to remain in their residences.
31 Home care services include, but are not limited to: Personal care such
32 as assistance with dressing, feeding, and personal hygiene to
33 facilitate self-care; homemaker assistance with household tasks, such
34 as housekeeping, shopping, meal planning and preparation, and
35 transportation; respite care assistance and support provided to the
36 family; or other nonmedical services.

1 ~~((4))~~ (7) "Home health agency" means a ~~((private or public agency~~
2 ~~or organization that administers or provides home health aide services~~
3 ~~or))~~ person administering or providing two or more home health services
4 directly or through a contract arrangement to ~~((ill, disabled, or~~
5 ~~infirm persons))~~ individuals in places of temporary or permanent
6 residence. ~~((A private or public agency or organization that~~
7 ~~administers or provides))~~ A person administering or providing nursing
8 services only may elect to be designated a home health agency for
9 purposes of licensure.

10 ~~((5))~~ (8) "Home health services" means ~~((health or medical))~~
11 services provided to ill, disabled, ~~((or))~~ infirm ~~((persons)), or~~
12 vulnerable individuals. These services ~~((may be of an acute or~~
13 ~~maintenance care nature, and))~~ include but are not limited to nursing
14 services, home health aide services, physical therapy services,
15 occupational therapy services, speech therapy services, respiratory
16 therapy services, nutritional services, medical social services, and
17 home medical supplies or equipment services.

18 ~~((6))~~ (9) "Home health aide services" means services provided by
19 a home health agency or a hospice agency under the supervision of a
20 registered nurse, physical therapist, occupational therapist, or speech
21 therapist who is employed by or under contract to a home health or
22 hospice agency. Such care includes ambulation and exercise, assistance
23 with self-administered medications, reporting changes in patients'
24 conditions and needs, completing appropriate records, and personal care
25 or homemaker services.

26 ~~((7))~~ "Homemaker services" means ~~services that assist ill,~~
27 ~~disabled, or infirm persons with household tasks essential to achieving~~
28 ~~adequate household and family management.~~

29 ~~(8))~~ (10) "Home medical supplies" or "equipment services" means
30 diagnostic, treatment, and monitoring equipment and supplies provided
31 for the direct care of individuals within a plan of care.

32 (11) "Hospice agency" means a ~~((private or public agency or~~
33 ~~organization))~~ person administering or providing hospice ~~((care))~~
34 services directly or through a contract arrangement to ~~((terminally ill~~
35 ~~persons))~~ individuals in places of temporary or permanent residence
36 ~~((by using))~~ under the direction of an interdisciplinary team composed
37 of at least ~~((nursing))~~ a nurse, social ~~((work))~~ worker, physician,
38 ~~((and pastoral or))~~ spiritual ~~((counseling))~~ counselor, and a
39 volunteer.

1 ~~((9))~~ (12) "Hospice care center" means a homelike,
2 noninstitutional facility where hospice services are provided, and that
3 meets the requirements for operation under section 21 of this act.

4 (13) "Hospice ~~((care))~~ services" means~~((:—(a) Palliative care))~~
5 symptom and pain management provided to a terminally ill ~~((person))~~
6 individual, and emotional, spiritual, and bereavement support for the
7 individual and family in a place of temporary or permanent residence
8 ~~((that alleviates physical symptoms, including pain, as well as~~
9 ~~alleviates the emotional and spiritual discomfort associated with~~
10 ~~dying; and (b) bereavement care provided to the family of a terminally~~
11 ~~ill person that alleviates the emotional and spiritual discomfort~~
12 ~~associated with the death of a family member. Hospice care)), and may~~
13 include the provision of home health and ~~((medical services and~~
14 personal care, respite, or homemaker services. Family means
15 individuals who are important to and designated by the patient, and who
16 need not be relatives.

17 (10) "Ill, disabled, or infirm persons" means persons who need home
18 health, hospice, or home care services in order to maintain themselves
19 in their places of temporary or permanent residence.

20 (11) "Personal care services" means services that assist ill,
21 disabled, or infirm persons with dressing, feeding, and personal
22 hygiene to facilitate self care.

23 (12) "Public or private agency or organization" means an entity
24 that employs or contracts with two or more persons who provide care in
25 the home.

26 (13) "Respite care services" means services that assist or support
27 the primary care giver on a scheduled basis)) home care services for
28 the terminally ill individual.

29 (14) "In-home services agency" means a person licensed to
30 administer or provide home health, home care, hospice services, or
31 hospice care center services directly or through a contract arrangement
32 to individuals in a place of temporary or permanent residence.

33 (15) "Person" means any individual, business, firm, partnership,
34 corporation, company, association, joint stock association, public or
35 private agency or organization, or the legal successor thereof that
36 employs or contracts with two or more individuals.

37 (16) "Plan of care" means a written document based on assessment of
38 individual needs that identifies services to meet these needs.

1 (17) "Quality improvement" means reviewing and evaluating
2 appropriateness and effectiveness of services provided under this
3 chapter.

4 (18) "Service area" means the geographic area in which the
5 department has given prior approval to a licensee to provide home
6 health, hospice, or home care services.

7 (19) "Survey" means an inspection conducted by the department to
8 evaluate and monitor an agency's compliance with this chapter.

9 **Sec. 2.** RCW 70.127.020 and 1988 c 245 s 3 are each amended to read
10 as follows:

11 ~~(1) After July 1, 1990, ((no private or public agency or~~
12 ~~organization may)) a license is required for a person to advertise,~~
13 ~~operate, manage, conduct, open, or maintain ((a home health agency~~
14 ~~without first obtaining a home health agency license from the~~
15 ~~department)) an in-home services agency.~~

16 ~~(2) ((After July 1, 1990, no private or public agency or~~
17 ~~organization may advertise, operate, manage, conduct, open, or maintain~~
18 ~~a hospice agency without first obtaining a hospice agency license from~~
19 ~~the department.~~

20 ~~(3) After July 1, 1990, no public or private agency or organization~~
21 ~~may advertise, operate, manage, conduct, open, or maintain a home care~~
22 ~~agency without first obtaining a home care agency license from the~~
23 ~~department.)) An in-home services agency license is required for a~~
24 ~~nursing home, hospital, or other person that functions as a home~~
25 ~~health, hospice, hospice care center, or home care agency.~~

26 **Sec. 3.** RCW 70.127.030 and 1988 c 245 s 4 are each amended to read
27 as follows:

28 It is unlawful for any person to use the words:

29 ~~(1) ((No person may use the words)) "Home health agency," "home~~
30 ~~health care services," ((or)) "visiting nurse services," "home health,"~~
31 ~~or "home health services" in its corporate or business name, or~~
32 ~~advertise using such words unless licensed ((as a home health agency))~~
33 ~~to provide those services under this chapter(((-))i~~

34 ~~(2) ((No person may use the words)) "Hospice agency," ((or))~~
35 ~~"hospice," "hospice services," "hospice care," or "hospice care center"~~
36 ~~in its corporate or business name, or advertise using such words unless~~

1 licensed (~~as a hospice agency~~) to provide those services under this
2 chapter(~~(-)~~);

3 (3) (~~No person may use the words~~) "Home care agency," (~~or~~)
4 "home care services," or "home care" in its corporate or business name,
5 or advertise using such words unless licensed (~~as a home care agency~~)
6 to provide those services under this chapter(~~(-)~~); or

7 (4) "In-home services agency," "in-home services," or any similar
8 term to indicate that a person is a home health, home care, hospice
9 care center, or hospice agency in its corporate or business name, or
10 advertise using such words unless licensed to provide those services
11 under this chapter.

12 **Sec. 4.** RCW 70.127.040 and 1993 c 42 s 2 are each amended to read
13 as follows:

14 The following are not subject to regulation for the purposes of
15 this chapter:

16 (1) A family member providing home health, hospice, or home care
17 services;

18 (2) (~~An organization that~~) A person who provides only meal
19 services in (~~a person's~~) an individual's permanent or temporary
20 residence;

21 (3) (~~Entities~~) An individual providing home care through a direct
22 agreement with a recipient of care in an individual's permanent or
23 temporary residence;

24 (4) A person furnishing (~~durable~~) or delivering home medical
25 supplies or equipment that does not involve the (~~delivery~~) provision
26 of (~~professional~~) services beyond those necessary to deliver, set up,
27 and monitor the proper functioning of the equipment and educate the
28 user on its proper use;

29 (~~(+4)~~) (5) A person who provides services through a contract with
30 a licensed agency;

31 (~~(+5)~~) (6) An employee or volunteer of a licensed agency who
32 provides services only as an employee or volunteer;

33 (~~(+6)~~) (7) Facilities and institutions, including but not limited
34 to nursing homes under chapter 18.51 RCW, hospitals under chapter 70.41
35 RCW, adult family homes under chapter 70.128 RCW, boarding homes under
36 chapter 18.20 RCW, developmental disability residential programs under
37 chapter 71.12 RCW, other entities licensed under chapter 71.12 RCW, or
38 other licensed facilities and institutions, only when providing

1 services to persons residing within the facility or institution ((if
2 ~~the delivery of the services is regulated by the state;~~
3 ~~(7) Persons~~));
4 (8) Local and combined city-county health departments providing
5 services under chapters 70.05 and 70.08 RCW;
6 (9) An individual providing care to ill, disabled ((persons)),
7 infirm, or vulnerable individuals through a contract with the
8 department of social and health services;
9 ~~((8))~~ (10) Nursing homes, hospitals, or other institutions,
10 agencies, organizations, or persons that contract with licensed home
11 health, hospice, or home care agencies for the delivery of services;
12 ~~((9))~~ (11) In-home assessments of an ill, disabled, vulnerable,
13 or infirm ((person's ability to adapt to the home environment))
14 individual that does not result in regular ongoing care at home;
15 ~~((10))~~ (12) Services conducted by and for the adherents of a
16 church or religious denomination that rely upon spiritual means alone
17 through prayer for healing in accordance with the tenets and practices
18 of such church or religious denomination and the bona fide religious
19 beliefs genuinely held by such adherents;
20 ~~((11))~~ (13) A medicare-approved dialysis center operating a
21 medicare-approved home dialysis program;
22 ~~((12))~~ (14) A person providing case management services ((which
23 do not include the direct delivery of home health, hospice, or home
24 care services)). For the purposes of this subsection, "case
25 management" means the assessment, coordination, authorization,
26 planning, training, and monitoring of home health, hospice, and home
27 care, and does not include the direct provision of care to an
28 individual;
29 ~~((13))~~ (15) Pharmacies licensed under RCW 18.64.043 that deliver
30 prescription drugs and durable medical equipment that does not involve
31 the use of professional services beyond those authorized to be
32 performed by licensed pharmacists pursuant to chapter 18.64 RCW and
33 those necessary to set up and monitor the proper functioning of the
34 equipment and educate the person on its proper use;
35 (16) A volunteer hospice complying with the requirements of RCW
36 70.127.050; and
37 (17) A person who provides home care services without compensation.

1 **Sec. 5.** RCW 70.127.050 and 1993 c 42 s 3 are each amended to read
2 as follows:

3 (1) An entity that provides hospice care without receiving
4 compensation for delivery of any of its services is exempt from
5 licensure pursuant to RCW 70.127.020(~~(+2+)~~) (1) if it notifies the
6 department, on forms provided by the department, of its name, address,
7 name of owner, and a statement affirming that it provides hospice care
8 without receiving compensation for delivery of any of its services.
9 This form must be filed with the department (~~(within sixty days after~~
10 ~~June 30, 1993, or)~~) within sixty days after being informed in writing
11 by the department of this requirement for obtaining exemption from
12 licensure under this chapter.

13 (2) For the purposes of this section, it is not relevant if the
14 entity compensates its staff. For the purposes of this section, the
15 word "compensation" does not include donations.

16 (3) Notwithstanding the provisions of RCW 70.127.030(2), an entity
17 that provides hospice care without receiving compensation for delivery
18 of any of its services is allowed to use the phrase "volunteer
19 hospice."

20 (4) Nothing in this chapter precludes an entity providing hospice
21 care without receiving compensation for delivery of any of its services
22 from obtaining a hospice license if it so chooses, but that entity
23 would be exempt from the requirements set forth in RCW 70.127.080(1)(d)
24 (~~(and (e))~~).

25 **Sec. 6.** RCW 70.127.080 and 1999 c 190 s 2 are each amended to read
26 as follows:

27 (1) An applicant for (~~(a home health, hospice, or home care)~~) an
28 in-home services agency license shall:

29 (a) File a written application on a form provided by the
30 department;

31 (b) Demonstrate ability to comply with this chapter and the rules
32 adopted under this chapter;

33 (c) Cooperate with on-site (~~(review)~~) survey conducted by the
34 department (~~(prior to licensure or renewal)~~) except as provided in RCW
35 70.127.085;

36 (d) Provide evidence of and maintain professional liability, public
37 liability, and property damage insurance (~~(in the amount of one hundred~~
38 ~~thousand dollars per occurrence or adequate self-insurance as approved~~

1 ~~by the department)) in an amount established by the department, based~~
2 ~~on industry standards.~~ This subsection shall not apply to hospice
3 agency applicants that provide hospice care without receiving
4 compensation for delivery of services;

5 ~~(e) ((Provide evidence of and maintain public liability and~~
6 ~~property damage insurance coverage in the sum of fifty thousand dollars~~
7 ~~for injury or damage to property per occurrence and fifty thousand~~
8 ~~dollars for injury or damage, including death, to any one person and~~
9 ~~one hundred thousand dollars for injury or damage, including death, to~~
10 ~~more than one person, or evidence of adequate self-insurance for public~~
11 ~~liability and property damage as approved by the department.—This~~
12 ~~subsection shall not apply to hospice agency applicants that provide~~
13 ~~hospice care without receiving compensation for delivery of services;~~

14 ~~(f))~~ Provide ~~((such proof as the department may require~~
15 ~~concerning))~~ documentation of an organizational structure, and the
16 identity of the applicant, officers, administrator, directors of
17 clinical services, partners, managing employees, or owners of ten
18 percent or more of the applicant's assets;

19 ~~((g))~~ (f) File with the department for approval a description of
20 the service area in which the applicant will operate and a description
21 of how the applicant intends to provide management and supervision of
22 services throughout the service area. The department shall adopt rules
23 necessary to establish criteria for approval that are related to
24 appropriate management and supervision of services throughout the
25 service area. In developing the rules, the department may not
26 establish criteria that:

- 27 (i) Limit the number or type of agencies in any service area; or
28 (ii) Limit the number of persons any agency may serve within its
29 service area unless the criteria are related to the need for trained
30 and available staff to provide services within the service area;

31 ~~((h))~~ (g) File with the department a list of the home health,
32 hospice, and home care services ~~((offered))~~ provided directly and under
33 contract;

34 ~~((i))~~ (h) Pay to the department a license fee as provided in RCW
35 70.127.090; ~~((and~~

36 ~~(j))~~ (i) Comply with RCW 43.43.830 through 43.43.842 for criminal
37 background checks; and

38 (j) Provide any other information that the department may
39 reasonably require.

1 (2) A certificate of need under chapter 70.38 RCW is not required
2 for licensure except for the operation of a hospice care center.

3 ~~((3) A license or renewal shall not be granted pursuant to this
4 chapter if the applicant, officers, directors, partners, managing
5 employees, or owners of ten percent or more of the applicant's assets,
6 within the last five years have been found in a civil or criminal
7 proceeding to have committed any act which reasonably relates to the
8 person's fitness to establish, maintain, or administer an agency or to
9 provide care in the home of another.))~~

10 **Sec. 7.** RCW 70.127.085 and 1993 c 42 s 11 are each amended to read
11 as follows:

12 (1) Notwithstanding the provisions of RCW 70.127.080(1)(c), ~~((a
13 home health or hospice agency))~~ an in-home services agency that is
14 certified by the federal medicare program, or accredited by the
15 community health accreditation program, or the joint commission on
16 accreditation of health care organizations as a home health or hospice
17 agency ~~((shall be granted the applicable renewal license, without
18 necessity of))~~ is not subject to a state licensure ~~((on-site))~~ survey
19 if:

20 (a) The department determines that the applicable survey standards
21 of the certification or accreditation program are substantially
22 equivalent to those required by this chapter;

23 (b) An on-site survey has been conducted for the purposes of
24 certification or accreditation during the previous twenty-four months;
25 and

26 (c) The department receives directly from the certifying or
27 accrediting entity or from the licensee applicant copies of the initial
28 and subsequent survey reports and other relevant reports or findings
29 that indicate compliance with licensure requirements.

30 (2) Notwithstanding the provisions of RCW 70.127.080(1)(c), ~~((a
31 home care agency))~~ an in-home services agency providing services under
32 contract with the department of social and health services or area
33 agency on aging to provide home care services and that is monitored by
34 the department of social and health services or area agency on aging
35 ~~((shall be granted a renewal license, without necessity of an on-site))~~
36 is not subject to a state licensure survey by the department of health
37 if:

1 (a) The department determines that the department of social and
2 health services or an area agency on aging monitoring standards are
3 substantially equivalent to those required by this chapter;

4 (b) An on-site monitoring has been conducted by the department of
5 social and health services or an area agency on aging during the
6 previous twenty-four months;

7 (c) The department of social and health services or an area agency
8 on aging includes in its monitoring a sample of private pay clients, if
9 applicable; and

10 (d) The department receives directly from the department of social
11 and health services copies of monitoring reports and other relevant
12 reports or findings that indicate compliance with licensure
13 requirements.

14 (3) The department retains authority to survey those services areas
15 not addressed by the national accrediting body, department of social
16 and health services, or an area agency on aging.

17 (4) In reviewing the federal, the joint commission on accreditation
18 of health care organizations, the community health accreditation
19 program, or the department of social and health services survey
20 standards for substantial equivalency to those set forth in this
21 chapter, the department is directed to provide the most liberal
22 interpretation consistent with the intent of this chapter. In the
23 event the department determines at any time that the survey standards
24 are not substantially equivalent to those required by this chapter, the
25 department is directed to notify the affected licensees. The
26 notification shall contain a detailed description of the deficiencies
27 in the alternative survey process, as well as an explanation concerning
28 the risk to the consumer. The determination of substantial equivalency
29 for alternative survey process and lack of substantial equivalency are
30 agency actions and subject to RCW 34.05.210 through 34.05.395 and
31 34.05.510 through ((34.05.680)) 34.05.675.

32 ((~~(4) Agencies receiving a license without necessity of an on-site~~
33 ~~survey by the department under this chapter shall pay the same~~
34 ~~licensure or transfer fee as other agencies in their licensure~~
35 ~~category. It is the intent of this section that the licensure fees for~~
36 ~~all agencies will be lowered by the elimination of the duplication that~~
37 ~~currently exists.))~~

38 (5) ((~~In order to avoid unnecessary costs,~~)) The department is
39 ((~~not~~)) authorized to perform a validation survey ((~~if it is also the~~

1 ~~agency performing the certification or accreditation survey. Where~~
2 ~~this is not the case,~~) on in-home services agencies who previously
3 received a survey through accreditation or contracts with the
4 department of social and health services or an area agency on aging
5 under subsection (2) of this section. The department is authorized to
6 perform a validation survey on no greater than ((five)) ten percent of
7 each type of certification or accreditation survey.

8 (6) This section does not affect the department's enforcement
9 authority for licensed agencies.

10 **Sec. 8.** RCW 70.127.090 and 1999 c 190 s 3 are each amended to read
11 as follows:

12 (1) Application and renewal fee: An application for a license or
13 any renewal shall be accompanied by a fee as established by the
14 department under RCW 43.70.250. The department shall adopt by rule
15 licensure fees based on a sliding scale using such factors as the
16 number of agency full-time equivalents, geographic area served, number
17 of locations, or type and volume of services provided. For agencies
18 receiving a licensure survey that requires more than two on-site
19 ~~((reviews))~~ surveys by the department per licensure period, an
20 additional fee as determined by the department by rule shall be charged
21 for each additional on-site ~~((review))~~ survey. ~~((The department shall~~
22 ~~charge a reasonable fee for processing changes in ownership.))~~ The
23 department may set different licensure fees for each licensure
24 category. Agencies receiving a license without necessity of an on-site
25 survey by the department under this chapter shall pay the same
26 licensure or transfer fee as other agencies in their licensure
27 category.

28 (2) Change of ownership fee: The department shall charge a
29 reasonable fee for processing changes in ownership. The fee for
30 transfer of ownership may not exceed fifty percent of the base
31 licensure fee.

32 (3) Late fee: The department may establish a late fee for failure
33 to apply for licensure or renewal as required by this chapter.

34 **Sec. 9.** RCW 70.127.100 and 1993 c 42 s 6 are each amended to read
35 as follows:

36 Upon receipt of an application under RCW 70.127.080 for a license
37 and the license fee, the department shall issue a license if the

1 applicant meets the requirements established under this chapter. A
2 license issued under this chapter shall not be transferred or assigned
3 without thirty days prior notice to the department and the department's
4 approval. A license, unless suspended or revoked, is effective for a
5 period of two years, however an initial license is only effective for
6 twelve months. The department shall conduct ~~((an on-site review))~~ a
7 survey within each licensure period~~((The department))~~ and may
8 conduct a licensure survey after ownership transfer. ~~((The fee for
9 this survey may not exceed fifty percent of the base licensure fee.
10 The department may establish penalty fees for failure to apply for
11 licensure or renewal as required by this chapter.))~~

12 **Sec. 10.** RCW 70.127.120 and 1993 c 42 s 8 are each amended to read
13 as follows:

14 The department shall adopt rules consistent with RCW 70.127.005
15 necessary to implement this chapter under chapter 34.05 RCW. In order
16 to ensure safe and adequate care, the rules shall address at a minimum
17 the following:

18 (1) Maintenance and preservation of all records relating directly
19 to the care and treatment of ~~((persons))~~ individuals by licensees;

20 (2) Establishment and implementation of a procedure for the
21 receipt, investigation, and disposition of complaints ~~((by the
22 department))~~ regarding services provided ~~((by licensees))~~;

23 (3) Establishment and implementation of a plan for ~~((on-going))~~
24 ongoing care of ~~((persons))~~ individuals and preservation of records if
25 the licensee ceases operations;

26 (4) Supervision of services;

27 (5) ~~((Maintenance))~~ Establishment and implementation of written
28 policies regarding response to referrals and access to services ~~((at
29 all times))~~;

30 (6) ~~((Maintenance))~~ Establishment and implementation of written
31 personnel policies ~~((and))~~ procedures and personnel records for paid
32 staff that provide for ~~((rehire))~~ prehire screening, minimum
33 qualifications, regular performance evaluations, including observation
34 in the home, participation in orientation and in-service training, and
35 involvement in quality ~~((assurance))~~ improvement activities. The
36 department may not establish experience or other qualifications for
37 agency personnel or contractors beyond that required by state law;

1 (7) (~~Maintenance~~) Establishment and implementation of written
2 policies and procedures for volunteers (~~that~~) who have direct
3 patient/client contact and that provide for background and health
4 screening, orientation, and supervision; (~~and~~)

5 (8) (~~Maintenance~~) Establishment and implementation of written
6 policies (~~on~~) for obtaining regular reports on patient satisfaction;

7 (9) Establishment and implementation of a quality improvement
8 process; and

9 (10) Establishment and implementation of policies related to the
10 delivery of care including:

11 (a) Plan of care for each individual served;

12 (b) Periodic review of the plan of care;

13 (c) Supervision of care and clinical consultation as necessary;

14 (d) Care consistent with the plan;

15 (e) Admission, transfer, and discharge from care; and

16 (f) For hospice services:

17 (i) Availability of twenty-four hour seven days a week hospice
18 registered nurse consultation and in-home services as appropriate;

19 (ii) Interdisciplinary team communication as appropriate and
20 necessary; and

21 (iii) The use and availability of volunteers to provide family
22 support and respite care.

23 **Sec. 11.** RCW 70.127.125 and 1993 c 42 s 7 are each amended to read
24 as follows:

25 The department is directed to continue to develop, with opportunity
26 for comment from licensees, interpretive guidelines that are specific
27 to each type of (~~license~~) service and consistent with legislative
28 intent.

29 **Sec. 12.** RCW 70.127.140 and 1988 c 245 s 15 are each amended to
30 read as follows:

31 (1) (~~A licensee~~) An in-home services agency shall provide each
32 (~~person~~) individual or designated representative with a written bill
33 of rights affirming each (~~person's~~) individual's right to:

34 (a) A listing of the in-home services offered by the in-home
35 services agency and those being provided;

36 (b) The name of the (~~person~~) individual supervising the care and
37 the manner in which that (~~person~~) individual may be contacted;

1 (c) A description of the process for submitting and addressing
2 complaints;

3 (d) Submit complaints without retaliation and to have the complaint
4 addressed by the agency;

5 (e) Be informed of the state complaint hotline number;

6 (f) A statement advising the ((person)) individual or
7 representative of the right to ((participate)) ongoing participation in
8 the development of the plan of care;

9 ((+e)) (g) A statement providing that the ((person)) individual or
10 representative is entitled to information regarding access to the
11 department's ((registry)) listing of providers and to select any
12 licensee to provide care, subject to the ((patient's)) individual's
13 reimbursement mechanism or other relevant contractual obligations;

14 ((+f)) (h) Be treated with courtesy, respect, privacy, and freedom
15 from abuse and discrimination;

16 ((+g)) (i) Refuse treatment or services;

17 ((+h) Have patient records be confidential; and

18 (i) Have)) (j) Have property treated with respect;

19 (k) Privacy of personal information and confidentiality of health
20 care records;

21 (l) Be cared for by properly trained staff ((and)) with
22 coordination of services;

23 (m) A fully itemized billing statement upon request, including the
24 date of each service and the charge. Licensees providing services
25 through a managed care plan shall not be required to provide itemized
26 billing statements; and

27 (n) Be informed about advanced directives and the agency's
28 responsibility to implement them.

29 (2) ((Upon request, a licensee shall provide each person or
30 designated representative with a fully itemized billing statement at
31 least monthly, including the date of each service and the charge.
32 Licensees providing services through a managed care plan shall not be
33 required to provide itemized billing statements.)) An in-home services
34 agency shall ensure rights under this section are implemented and
35 updated as appropriate.

36 **Sec. 13.** RCW 70.127.150 and 1988 c 245 s 16 are each amended to
37 read as follows:

1 No licensee, contractee, or employee may hold a durable power of
2 attorney on behalf of any ((person)) individual who is receiving care
3 from the licensee.

4 **Sec. 14.** RCW 70.127.170 and 1988 c 245 s 18 are each amended to
5 read as follows:

6 Pursuant to chapter 34.05 RCW and RCW 70.127.180(3), the department
7 may deny, restrict, condition, modify, suspend, or revoke a license
8 under this chapter or, in lieu thereof or in addition thereto, assess
9 monetary penalties of a civil nature not to exceed one thousand dollars
10 per violation, or require a refund of any amounts billed to, and
11 collected from, the consumer or third-party payor in any case in which
12 it finds that the licensee, or any applicant, officer, director,
13 partner, managing employee, or owner of ten percent or more of the
14 applicant's or licensee's assets:

15 (1) Failed or refused to comply with the requirements of this
16 chapter or the standards or rules adopted under this chapter;

17 (2) Was the holder of a license issued pursuant to this chapter
18 that was revoked for cause and never reissued by the department, or
19 that was suspended for cause and the terms of the suspension have not
20 been fulfilled and the licensee has continued to operate;

21 (3) Has knowingly or with reason to know made a misrepresentation
22 of, false statement of, or failed to disclose, a material fact to the
23 department in ((the)) an application for the license or any data
24 attached thereto or in any record required by this chapter or matter
25 under investigation by the department, or during a survey, or
26 concerning information requested by the department;

27 (4) Refused to allow representatives of the department to inspect
28 any book, record, or file required by this chapter to be maintained or
29 any portion of the licensee's premises;

30 (5) Willfully prevented, interfered with, or attempted to impede in
31 any way the work of any representative of the department and the lawful
32 enforcement of any provision of this chapter. This includes but is not
33 limited to: Willful misrepresentation of facts during a survey,
34 investigation, or administrative proceeding or any other legal action;
35 or use of threats or harassment against any patient, client, or
36 witness, or use of financial inducements to any patient, client, or
37 witness to prevent or attempt to prevent him or her from providing

- 1 evidence during a survey or investigation, in an administrative
2 proceeding, or any other legal action involving the department;
- 3 (6) Willfully prevented or interfered with any representative of
4 the department in the preservation of evidence of any violation of this
5 chapter or the rules adopted under this chapter;
- 6 (7) Failed to pay any civil monetary penalty assessed by the
7 department pursuant to this chapter within ten days after the
8 assessment becomes final;
- 9 (8) Used advertising that is false, fraudulent, or misleading;
- 10 (9) Has repeated incidents of personnel performing services beyond
11 their authorized scope of practice; ((or))
- 12 (10) Misrepresented or was fraudulent in any aspect of the conduct
13 of the licensee's business;
- 14 (11) Within the last five years, has been found in a civil or
15 criminal proceeding to have committed any act that reasonably relates
16 to the person's fitness to establish, maintain, or administer an agency
17 or to provide care in the home of another;
- 18 (12) Was the holder of a license to provide care or treatment to
19 ill, disabled, infirm, or vulnerable individuals that was denied,
20 restricted, not renewed, surrendered, suspended, or revoked by a
21 competent authority in any state, federal, or foreign jurisdiction. A
22 certified copy of the order, stipulation, or agreement is conclusive
23 evidence of the denial, restriction, nonrenewal, surrender, suspension,
24 or revocation;
- 25 (13) Violated any state or federal statute, or administrative rule
26 regulating the operation of the agency;
- 27 (14) Failed to comply with an order issued by the secretary or
28 designee;
- 29 (15) Aided or abetted the unlicensed operation of an in-home
30 services agency;
- 31 (16) Operated beyond the scope of the in-home services agency
32 license;
- 33 (17) Failed to adequately supervise staff to the extent that the
34 health or safety of a patient or client was at risk;
- 35 (18) Compromised the health or safety of a patient or client,
36 including, but not limited to, the individual performing services
37 beyond their authorized scope of practice;

1 (19) Continued to operate after license revocation, suspension, or
2 expiration, or operating outside the parameters of a modified,
3 conditioned, or restricted license;

4 (20) Failed or refused to comply with chapter 70.02 RCW;

5 (21) Abused, neglected, abandoned, or financially exploited a
6 patient or client as these terms are defined in RCW 74.34.020;

7 (22) Misappropriated the property of an individual;

8 (23) Is unqualified or unable to operate or direct the operation of
9 the agency according to this chapter and the rules adopted under this
10 chapter;

11 (24) Obtained or attempted to obtain a license by fraudulent means
12 or misrepresentation; or

13 (25) Failed to report abuse or neglect of a patient or client in
14 violation of chapter 74.34 RCW.

15 **Sec. 15.** RCW 70.127.180 and 1988 c 245 s 19 are each amended to
16 read as follows:

17 (1) The department may at any time conduct ((an on-site review)) a
18 survey of all records and operations of a licensee ((or conduct in-home
19 visits)) in order to determine compliance with this chapter. The
20 department may ((also examine and audit records necessary to determine
21 compliance with this chapter)) conduct in-home visits to observe
22 patient/client care and services. The right to conduct ((an on-site
23 review and audit and examination of records)) a survey shall extend to
24 any premises and records of persons whom the department has reason to
25 believe are providing home health, hospice, or home care services
26 without a license.

27 (2) Following ((an on-site review, in-home visit, or audit)) a
28 survey, the department shall give written notice of any violation of
29 this chapter or the rules adopted under this chapter. The notice shall
30 describe the reasons for noncompliance ((and inform the licensee that
31 it must comply within a specified reasonable time, not to exceed sixty
32 days. If the licensee fails to comply, the licensee is subject to
33 disciplinary action under RCW 70.127.170)).

34 (3) The licensee may be subject to formal enforcement action under
35 RCW 70.127.170 if the department determines: (a) The licensee has
36 previously been subject to a formal enforcement action for the same or
37 similar type of violation of the same statute or rule, or has been
38 given previous notice of the same or similar type of violation of the

1 same statute or rule; (b) the licensee failed to achieve compliance
2 with a statute, rule, or order by the date established in a previously
3 issued notice or order; (c) the violation resulted in actual serious
4 physical or emotional harm or immediate threat to the health, safety,
5 welfare, or rights of one or more individuals; or (d) the violation has
6 a potential for serious physical or emotional harm or immediate threat
7 to the health, safety, welfare, or rights of one or more individuals.

8 **Sec. 16.** RCW 70.127.190 and 1988 c 245 s 20 are each amended to
9 read as follows:

10 All information received by the department through filed reports,
11 ~~((audits, on-site reviews,))~~ surveys, and in-home visits~~((, or as~~
12 ~~otherwise authorized))~~ conducted under this chapter shall not be
13 disclosed publicly in any manner that would identify ~~((persons))~~
14 individuals receiving care under this chapter.

15 **Sec. 17.** RCW 70.127.200 and 1988 c 245 s 21 are each amended to
16 read as follows:

17 (1) Notwithstanding the existence or use of any other remedy, the
18 department may, in the manner provided by law and upon the advice of
19 the attorney general, who shall represent the department in the
20 proceedings, maintain an action in the name of the state for an
21 injunction or other process against any person to restrain or prevent
22 the advertising, operating, maintaining, managing, or opening of a home
23 health, hospice, hospice care center, or home care agency without ((a))
24 an in-home services agency license under this chapter.

25 (2) The injunction shall not relieve the person operating an in-
26 home services agency without a license from criminal prosecution, or
27 the imposition of a civil fine under section 19(2) of this act, but the
28 remedy by injunction shall be in addition to any criminal liability or
29 civil fine. A person that violates an injunction issued under this
30 chapter shall pay a civil penalty, as determined by the court, of not
31 more than twenty-five thousand dollars, which shall be deposited in the
32 department's local fee account. For the purpose of this section, the
33 superior court issuing any injunction shall retain jurisdiction and the
34 cause shall be continued, and in such cases the attorney general acting
35 in the name of the state may petition for the recovery of civil
36 penalties. All fines, forfeitures, and penalties collected or assessed

1 by a court because of a violation of RCW 70.127.020 shall be deposited
2 in the department's local fee account.

3 **Sec. 18.** RCW 70.127.210 and 1988 c 245 s 22 are each amended to
4 read as follows:

5 (1) Any person violating RCW 70.127.020 is guilty of a misdemeanor.
6 Each day of a continuing violation is a separate violation.

7 (2) If any corporation conducts any activity for which a license is
8 required by this chapter without the required license, it may be
9 punished by forfeiture of its corporate charter. All fines,
10 forfeitures, and penalties collected or assessed by a court because of
11 a violation of RCW 70.127.020 shall be deposited in the department's
12 local fee account.

13 NEW SECTION. **Sec. 19.** A new section is added to chapter 70.127
14 RCW to read as follows:

15 (1) The department may issue a notice of intention to issue a cease
16 and desist order to any person whom the department has reason to
17 believe is engaged in the unlicensed operation of an in-home services
18 agency. The person to whom the notice of intent is issued may request
19 an adjudicative proceeding to contest the charges. The request for
20 hearing must be filed within twenty days after service of the notice of
21 intent to issue a cease and desist order. The failure to request a
22 hearing constitutes a default, whereupon the department may enter a
23 permanent cease and desist order, which may include a civil fine. All
24 proceedings shall be conducted in accordance with chapter 34.05 RCW.

25 (2) If the department makes a final determination that a person has
26 engaged or is engaging in unlicensed operation of an in-home services
27 agency, the department may issue a cease and desist order. In
28 addition, the department may impose a civil fine in an amount not
29 exceeding one thousand dollars for each day upon which the person
30 engaged in unlicensed operation of an in-home services agency. The
31 proceeds of such fines shall be deposited in the department's local fee
32 account.

33 (3) If the department makes a written finding of fact that the
34 public interest will be irreparably harmed by delay in issuing an
35 order, the department may issue a temporary cease and desist order.
36 The person receiving a temporary cease and desist order shall be
37 provided an opportunity for a prompt hearing. The temporary cease and

1 desist order shall remain in effect until further order of the
2 department. The failure to request a prompt or regularly scheduled
3 hearing constitutes a default, whereupon the department may enter a
4 permanent cease and desist order, which may include a civil fine.

5 (4) Neither the issuance of a cease and desist order nor payment of
6 a civil fine shall relieve the person so operating an in-home services
7 agency without a license from criminal prosecution, but the remedy of
8 a cease and desist order or civil fine shall be in addition to any
9 criminal liability. The cease and desist order is conclusive proof of
10 unlicensed operation and may be enforced under RCW 7.21.060. This
11 method of enforcement of the cease and desist order or civil fine may
12 be used in addition to, or as an alternative to, any provisions for
13 enforcement of agency orders set out in chapter 34.05 RCW.

14 NEW SECTION. **Sec. 20.** A new section is added to chapter 70.127
15 RCW to read as follows:

16 The legislature finds that the operation of an in-home services
17 agency without a license in violation of this chapter is a matter
18 vitally affecting the public interest for the purpose of applying the
19 consumer protection act, chapter 19.86 RCW. Operation of an in-home
20 services agency without a license in violation of this chapter is not
21 reasonable in relation to the development and preservation of business.
22 Such a violation is an unfair or deceptive act in trade or commerce and
23 an unfair method of competition for the purpose of applying the
24 consumer protection act, chapter 19.86 RCW.

25 NEW SECTION. **Sec. 21.** A new section is added to chapter 70.127
26 RCW to read as follows:

27 (1) Applicants desiring to operate a hospice care center are
28 subject to the following:

29 (a) The application may only be made by a licensed hospice agency.
30 The agency shall list which of the following service categories will be
31 provided:

32 (i) General inpatient care;

33 (ii) Continuous home care;

34 (iii) Routine home care; or

35 (iv) Inpatient respite care;

36 (b) A certificate of need is required under chapter 70.38 RCW;

1 (c) A hospice agency may operate more than one hospice care center
2 in its service area;

3 (d) For hospice agencies that operate a hospice care center, no
4 more than forty-nine percent of patient care days, in the aggregate on
5 a biennial basis, may be provided in the hospice care center;

6 (e) The maximum number of beds in a hospice care center is twenty;

7 (f) The maximum number of individuals per room is one, unless the
8 individual requests a roommate;

9 (g) A hospice care center may either be owned or leased by a
10 hospice agency. If the agency leases space, all delivery of
11 interdisciplinary services, to include staffing and management, shall
12 be done by the hospice agency; and

13 (h) A hospice care center may either be freestanding or a separate
14 portion of another building.

15 (2) The department is authorized to develop rules to implement this
16 section. The rules shall be specific to each hospice care center
17 service category provided. The rules shall at least specifically
18 address the following:

19 (a) Adequate space for family members to visit, meet, cook, share
20 meals, and stay overnight with patients or clients;

21 (b) A separate external entrance, clearly identifiable to the
22 public when part of an existing structure;

23 (c) Construction, maintenance, and operation of a hospice care
24 center;

25 (d) Means to inform the public which hospice care center service
26 categories are provided; and

27 (e) A registered nurse present twenty-four hours a day, seven days
28 a week for hospice care centers delivering general inpatient services.

29 (3) Hospice agencies which as of January 1, 2000, operate the
30 functional equivalent of a hospice care center through licensure as a
31 hospital, under chapter 70.41 RCW, shall be exempt from the certificate
32 of need requirement for hospice care centers if they apply for and
33 receive a license as an in-home services agency to operate a hospice
34 home care center by July 1, 2002.

35 **Sec. 22.** RCW 70.38.025 and 1997 c 210 s 2 are each amended to read
36 as follows:

37 When used in this chapter, the terms defined in this section shall
38 have the meanings indicated.

1 (1) "Board of health" means the state board of health created
2 pursuant to chapter 43.20 RCW.

3 (2) "Capital expenditure" is an expenditure, including a force
4 account expenditure (i.e., an expenditure for a construction project
5 undertaken by a nursing home facility as its own contractor) which,
6 under generally accepted accounting principles, is not properly
7 chargeable as an expense of operation or maintenance. Where a person
8 makes an acquisition under lease or comparable arrangement, or through
9 donation, which would have required review if the acquisition had been
10 made by purchase, such expenditure shall be deemed a capital
11 expenditure. Capital expenditures include donations of equipment or
12 facilities to a nursing home facility which if acquired directly by
13 such facility would be subject to certificate of need review under the
14 provisions of this chapter and transfer of equipment or facilities for
15 less than fair market value if a transfer of the equipment or
16 facilities at fair market value would be subject to such review. The
17 cost of any studies, surveys, designs, plans, working drawings,
18 specifications, and other activities essential to the acquisition,
19 improvement, expansion, or replacement of any plant or equipment with
20 respect to which such expenditure is made shall be included in
21 determining the amount of the expenditure.

22 (3) "Continuing care retirement community" means an entity which
23 provides shelter and services under continuing care contracts with its
24 members and which sponsors or includes a health care facility or a
25 health service. A "continuing care contract" means a contract to
26 provide a person, for the duration of that person's life or for a term
27 in excess of one year, shelter along with nursing, medical, health-
28 related, or personal care services, which is conditioned upon the
29 transfer of property, the payment of an entrance fee to the provider of
30 such services, or the payment of periodic charges for the care and
31 services involved. A continuing care contract is not excluded from
32 this definition because the contract is mutually terminable or because
33 shelter and services are not provided at the same location.

34 (4) "Department" means the department of health.

35 (5) "Expenditure minimum" means, for the purposes of the
36 certificate of need program, one million dollars adjusted by the
37 department by rule to reflect changes in the United States department
38 of commerce composite construction cost index; or a lesser amount
39 required by federal law and established by the department by rule.

1 (6) "Health care facility" means hospices, hospice care centers,
2 hospitals, psychiatric hospitals, nursing homes, kidney disease
3 treatment centers, ambulatory surgical facilities, and home health
4 agencies, and includes such facilities when owned and operated by a
5 political subdivision or instrumentality of the state and such other
6 facilities as required by federal law and implementing regulations, but
7 does not include any health facility or institution conducted by and
8 for those who rely exclusively upon treatment by prayer or spiritual
9 means in accordance with the creed or tenets of any well-recognized
10 church or religious denomination, or any health facility or institution
11 operated for the exclusive care of members of a convent as defined in
12 RCW 84.36.800 or rectory, monastery, or other institution operated for
13 the care of members of the clergy. In addition, the term does not
14 include any nonprofit hospital: (a) Which is operated exclusively to
15 provide health care services for children; (b) which does not charge
16 fees for such services; and (c) if not contrary to federal law as
17 necessary to the receipt of federal funds by the state.

18 (7) "Health maintenance organization" means a public or private
19 organization, organized under the laws of the state, which:

20 (a) Is a qualified health maintenance organization under Title
21 XIII, section 1310(d) of the Public Health Services Act; or

22 (b)(i) Provides or otherwise makes available to enrolled
23 participants health care services, including at least the following
24 basic health care services: Usual physician services, hospitalization,
25 laboratory, x-ray, emergency, and preventive services, and out-of-area
26 coverage; (ii) is compensated (except for copayments) for the provision
27 of the basic health care services listed in (b)(i) to enrolled
28 participants by a payment which is paid on a periodic basis without
29 regard to the date the health care services are provided and which is
30 fixed without regard to the frequency, extent, or kind of health
31 service actually provided; and (iii) provides physicians' services
32 primarily (A) directly through physicians who are either employees or
33 partners of such organization, or (B) through arrangements with
34 individual physicians or one or more groups of physicians (organized on
35 a group practice or individual practice basis).

36 (8) "Health services" means clinically related (i.e., preventive,
37 diagnostic, curative, rehabilitative, or palliative) services and
38 includes alcoholism, drug abuse, and mental health services and as
39 defined in federal law.

1 (9) "Health service area" means a geographic region appropriate for
2 effective health planning which includes a broad range of health
3 services.

4 (10) "Person" means an individual, a trust or estate, a
5 partnership, a corporation (including associations, joint stock
6 companies, and insurance companies), the state, or a political
7 subdivision or instrumentality of the state, including a municipal
8 corporation or a hospital district.

9 (11) "Provider" generally means a health care professional or an
10 organization, institution, or other entity providing health care but
11 the precise definition for this term shall be established by rule of
12 the department, consistent with federal law.

13 (12) "Public health" means the level of well-being of the general
14 population; those actions in a community necessary to preserve,
15 protect, and promote the health of the people for which government is
16 responsible; and the governmental system developed to guarantee the
17 preservation of the health of the people.

18 (13) "Secretary" means the secretary of health or the secretary's
19 designee.

20 (14) "Tertiary health service" means a specialized service that
21 meets complicated medical needs of people and requires sufficient
22 patient volume to optimize provider effectiveness, quality of service,
23 and improved outcomes of care.

24 (15) "Hospital" means any health care institution which is required
25 to qualify for a license under RCW 70.41.020(2); or as a psychiatric
26 hospital under chapter 71.12 RCW.

27 NEW SECTION. **Sec. 23.** A new section is added to chapter 70.38 RCW
28 to read as follows:

29 All certificate of need applications submitted by hospice agencies
30 for the construction, development, or other establishment of a facility
31 to be licensed as either a hospital under chapter 70.41 RCW or as a
32 nursing home under chapter 18.51 RCW, for the purpose of operating the
33 functional equivalent of a hospice care center shall not require a
34 separate certificate of need for a hospice care center provided the
35 certificate of need application was declared complete prior to July 1,
36 2001, the applicant has been issued a certificate of need, and has
37 applied for and received an in-home services agency license by July 1,
38 2002.

1 **Sec. 24.** RCW 74.39A.050 and 1999 c 336 s 5 are each amended to
2 read as follows:

3 The department's system of quality improvement for long-term care
4 services shall use the following principles, consistent with applicable
5 federal laws and regulations:

6 (1) The system shall be client-centered and promote privacy,
7 independence, dignity, choice, and a home or home-like environment for
8 consumers consistent with chapter 392, Laws of 1997.

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

15 (3) Providers should be supported in their efforts to improve
16 quality and address identified problems initially through training,
17 consultation, technical assistance, and case management.

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

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

24 (6) Prompt and specific enforcement remedies shall also be
25 implemented without delay, pursuant to RCW 74.39A.080, RCW 70.128.160,
26 chapter 18.51 RCW, or chapter 74.42 RCW, for providers found to have
27 delivered care or failed to deliver care resulting in problems that are
28 serious, recurring, or uncorrected, or that create a hazard that is
29 causing or likely to cause death or serious harm to one or more
30 residents. These enforcement remedies may also include, when
31 appropriate, reasonable conditions on a contract or license. In the
32 selection of remedies, the safety, health, and well-being of residents
33 shall be of paramount importance.

34 (7) To the extent funding is available, all long-term care staff
35 directly responsible for the care, supervision, or treatment of
36 vulnerable persons should be screened through background checks in a
37 uniform and timely manner to ensure that they do not have a criminal
38 history that would disqualify them from working with vulnerable
39 persons. Whenever a state conviction record check is required by state

1 law, persons may be employed or engaged as volunteers or independent
2 contractors on a conditional basis according to law and rules adopted
3 by the department.

4 (8) No provider or staff, or prospective provider or staff, with a
5 stipulated finding of fact, conclusion of law, an agreed order, or
6 finding of fact, conclusion of law, or final order issued by a
7 disciplining authority, a court of law, or entered into a state
8 registry finding him or her guilty of abuse, neglect, exploitation, or
9 abandonment of a minor or a vulnerable adult as defined in chapter
10 74.34 RCW shall be employed in the care of and have unsupervised access
11 to vulnerable adults.

12 (9) The department shall establish, by rule, a state registry which
13 contains identifying information about personal care aides identified
14 under this chapter who have substantiated findings of abuse, neglect,
15 financial exploitation, or abandonment of a vulnerable adult as defined
16 in RCW 74.34.020. The rule must include disclosure, disposition of
17 findings, notification, findings of fact, appeal rights, and fair
18 hearing requirements. The department shall disclose, upon request,
19 substantiated findings of abuse, neglect, financial exploitation, or
20 abandonment to any person so requesting this information.

21 (10) The department shall by rule develop training requirements for
22 individual providers and home care agency providers. Effective March
23 1, 2002, individual providers and home care agency providers must
24 satisfactorily complete department-approved orientation, basic
25 training, and continuing education within the time period specified by
26 the department in rule. The department shall adopt rules by March 1,
27 2002, for the implementation of this section in collaboration with
28 providers, consumers, caregivers, advocates, family members, educators,
29 and other interested parties, in the rule-making process, or the
30 community long-term care training and education steering committee, if
31 enacted. The department shall deny payment to an individual provider
32 or a home care provider who does not complete the training requirements
33 within the time limit specified by the department by rule.

34 (11) In an effort to improve access to training and education, the
35 coordinated system of long-term care training and education must
36 include flexible and innovative learning strategies that accomplish the
37 training goals, such as competency and outcome-based models and
38 distance learning.

1 (12) The department shall create an approval system by March 1,
2 2002, for those seeking to conduct department-approved training.

3 (13) The department shall establish, by rule, training, background
4 checks, and other quality assurance requirements for personal aides who
5 provide in-home services funded by medicaid personal care as described
6 in RCW 74.09.520, community options program entry system waiver
7 services as described in RCW 74.39A.030, or chore services as described
8 in RCW 74.39A.110 that are equivalent to requirements for individual
9 providers.

10 (~~(12)~~) (14) Under existing funds the department shall establish
11 internally a quality improvement standards committee to monitor the
12 development of standards and to suggest modifications.

13 (~~(13)~~) (15) Within existing funds, the department shall design,
14 develop, and implement a long-term care training program that is
15 flexible, relevant, and qualifies towards the requirements for a
16 nursing assistant certificate as established under chapter 18.88A RCW.
17 This subsection does not require completion of the nursing assistant
18 certificate training program by providers or their staff. The long-
19 term care teaching curriculum must consist of a fundamental module, or
20 modules, and a range of other available relevant training modules that
21 provide the caregiver with appropriate options that assist in meeting
22 the resident's care needs. Some of the training modules may include,
23 but are not limited to, specific training on the special care needs of
24 persons with developmental disabilities, dementia, mental illness, and
25 the care needs of the elderly. No less than one training module must
26 be dedicated to workplace violence prevention. The nursing care
27 quality assurance commission shall work together with the department to
28 develop the curriculum modules. The nursing care quality assurance
29 commission shall direct the nursing assistant training programs to
30 accept some or all of the skills and competencies from the curriculum
31 modules towards meeting the requirements for a nursing assistant
32 certificate as defined in chapter 18.88A RCW. A process may be
33 developed to test persons completing modules from a caregiver's class
34 to verify that they have the transferable skills and competencies for
35 entry into a nursing assistant training program. The department may
36 review whether facilities can develop their own related long-term care
37 training programs. The department may develop a review process for
38 determining what previous experience and training may be used to waive
39 some or all of the mandatory training. The department of social and

1 health services and the nursing care quality assurance commission shall
2 work together to develop an implementation plan by December 12, 1998.

3 NEW SECTION. **Sec. 25.** A new section is added to chapter 74.39A
4 RCW to read as follows:

5 All training curricula and material, except competency testing
6 material, developed by the department and used in part or in whole to
7 improve provider and caregiver knowledge and skill are in the public
8 domain and are subject to public disclosure under chapter 42.17 RCW.
9 Any training curricula and material developed by a private entity and
10 used under contract or by agreement with the department are also
11 considered part of the public domain and shall be shared subject to any
12 copyright restrictions. It is department's responsibility when making
13 training materials available to the public, to identify which material
14 has copyright or other legal restrictions on its use, and which does
15 not. Any proprietary curricula and material developed by a private
16 entity for training purposes in facilities licensed under chapter 18.20
17 or 70.128 RCW or individual providers and home care agency providers
18 under this chapter and approved for training by the department are not
19 part of the public domain.

20 NEW SECTION. **Sec. 26.** This act takes effect January 1, 2002.

21 NEW SECTION. **Sec. 27.** The following acts or parts of acts are
22 each repealed:

23 (1) RCW 70.127.060 (Nursing homes--Application of chapter) and 1988
24 c 245 s 7;

25 (2) RCW 70.127.070 (Hospitals--Application of chapter) and 1988 c
26 245 s 8;

27 (3) RCW 70.127.110 (Licenses--Combination--Rules--Fees) and 1999 c
28 190 s 4 & 1988 c 245 s 12;

29 (4) RCW 70.127.220 (Agency registry) and 1988 c 245 s 23;

30 (5) RCW 70.127.230 (Hospice agencies--Exemption for certain
31 activities) and 1988 c 245 s 24;

32 (6) RCW 70.127.240 (Home health or hospice agencies--Exemption for
33 certain activities) and 1988 c 245 s 27;

34 (7) RCW 70.127.250 (Home health agencies--Patient care and
35 treatment--Rules--Definitions) and 1994 sp.s. c 9 s 745, 1993 c 42 s
36 10, & 1988 c 245 s 25;

1 (8) RCW 70.127.260 (Hospice agencies--Rules) and 1988 c 245 s 26;
2 and
3 (9) RCW 70.127.270 (Home care agencies--Rules) and 1988 c 245 s
4 28."

5 **HB 2510** - S COMM AMD
6 By Committee on Health & Long-Term Care

7 ADOPTED 3/1/00

8 On page 1, line 1 of the title, after "services;" strike the
9 remainder of the title and insert "amending RCW 70.127.010, 70.127.020,
10 70.127.030, 70.127.040, 70.127.050, 70.127.080, 70.127.085, 70.127.090,
11 70.127.100, 70.127.120, 70.127.125, 70.127.140, 70.127.150, 70.127.170,
12 70.127.180, 70.127.190, 70.127.200, 70.127.210, 70.38.025, and
13 74.39A.050; adding new sections to chapter 70.127 RCW; adding a new
14 section to chapter 70.38 RCW; adding a new section to chapter 74.39A
15 RCW; repealing RCW 70.127.060, 70.127.070, 70.127.110, 70.127.220,
16 70.127.230, 70.127.240, 70.127.250, 70.127.260, and 70.127.270;
17 prescribing penalties; and providing an effective date."

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