

1 1890 AMH .... H3192.1

2 **HB 1890** - H AMD 695 ADOPTED 6-28-91

3 By Representative Braddock

4

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

7 "Sec. 1. RCW 18.51.050 and 1989 c 372 s 1 are each amended to read  
8 as follows:

9 Upon receipt of an application for license, the department shall  
10 issue a license if the applicant and the nursing home facilities meet  
11 the requirements established under this chapter, except that the  
12 department shall issue a temporary license to a court-appointed  
13 receiver for a period not to exceed six months from the date of  
14 appointment. Prior to the issuance or renewal of the license, the  
15 licensee shall pay a license fee as established by the department. No  
16 fee shall be required of government operated institutions or court-  
17 appointed receivers. All licenses issued under the provisions of this  
18 chapter shall expire on a date to be set by the department, but no  
19 license issued pursuant to this chapter shall exceed thirty-six months  
20 in duration. When a change of ownership occurs, the entity becoming  
21 the licensed operating entity of the facility shall pay a fee  
22 established by the department at the time of application for the  
23 license. The previously determined date of license expiration shall  
24 not change. (~~The department shall conduct, without charge to the~~  
25 ~~nursing homes, one annual licensing and certification survey per~~  
26 ~~calendar year and one postsurvey visit.~~

27 ~~For all additional surveys required beyond the first postsurvey~~  
28 ~~visit, nursing homes shall pay an inspection fee of twelve dollars per~~

1 ~~bed to the department. The inspection fee shall be due within thirty~~  
2 ~~days of the completion date of the postsurvey.))~~ The department shall  
3 establish license fees at an amount adequate to reimburse the  
4 department in full for all costs of its licensing activities for  
5 nursing homes, adjusted to cover the department's cost of reimbursing  
6 such fees through medicaid.

7 All applications and fees for renewal of the license shall be  
8 submitted to the department not later than thirty days prior to the  
9 date of expiration of the license. All applications and fees for  
10 change of ownership licenses shall be submitted to the department not  
11 later than sixty days before the date of the proposed change of  
12 ownership. Each license shall be issued only to the operating entity  
13 and those persons named in the license application. The license is  
14 valid only for the operation of the facility at the location specified  
15 in the license application. Licenses are not transferable or  
16 assignable. Licenses shall be posted in a conspicuous place on the  
17 licensed premises."

18 **"Sec. 2.** RCW 18.51.310 and 1981 2nd ex.s. c 11 s 5 are each  
19 amended to read as follows:

20 (1) ~~((Within thirty days of admission, the department shall~~  
21 ~~evaluate, through review and assessment, the comprehensive plan of care~~  
22 ~~for each resident supported by the department under RCW 74.09.120 as~~  
23 ~~now or hereafter amended.~~

24 (2) ~~The department shall review the comprehensive plan of care for~~  
25 ~~such resident at least annually or upon any change in the resident's~~  
26 ~~classification.~~

27 (3) ~~Based upon the assessment of the resident's needs, the~~  
28 ~~department shall assign such resident to a classification.~~

1 ~~Developmentally disabled residents shall be classified under a separate~~  
2 ~~system.~~

3 ~~(4) The nursing home shall submit any request to modify a~~  
4 ~~resident's classification to the department for the department's~~  
5 ~~approval. The approval shall not be given until the department has~~  
6 ~~reviewed the resident.~~

7 ~~(5))~~ The department shall establish, in compliance with federal  
8 and state law, a comprehensive plan for utilization review as necessary  
9 to safeguard against unnecessary utilization of care and services and  
10 to assure quality care and services provided to nursing facility  
11 residents.

12 (2) The department shall adopt licensing standards suitable for  
13 implementing the civil penalty system authorized under this chapter and  
14 chapter 74.46 RCW.

15 ~~((6))~~ (3) No later than July 1, 1981, the department shall adopt  
16 all those regulations which meet all conditions necessary to fully  
17 implement the civil penalty system authorized by this chapter, chapter  
18 74.42 RCW, and chapter 74.46 RCW."

19 **"Sec. 3.** RCW 43.190.020 and 1983 c 290 s 2 are each amended to  
20 read as follows:

21 As used in this chapter, "long-term care facility" means any of the  
22 following which provide services to persons sixty years of age and  
23 older and is:

24 (1) A facility which:

25 (a) Maintains and operates twenty-four hour skilled nursing  
26 services for the care and treatment of chronically ill or convalescent  
27 patients, including mental, emotional, or behavioral problems, mental  
28 retardation, or alcoholism;

1 (b) Provides supportive, restorative, and preventive health  
2 services in conjunction with a socially oriented program to its  
3 residents, and which maintains and operates twenty-four hour services  
4 including board, room, personal care, and intermittent nursing care.  
5 "Long-term health care facility" includes nursing homes(~~(, skilled~~  
6 ~~nursing facilities, and intermediate care)) and nursing facilities, but  
7 does not include acute care hospital or other licensed facilities  
8 except for that distinct part of the hospital or facility which  
9 provides nursing (~~(home, skilled nursing facility, or intermediate~~  
10 ~~care)) facility services.~~~~

11 (2) Any family home, group care facility, or similar facility  
12 determined by the secretary, for twenty-four hour nonmedical care of  
13 persons in need of personal services, supervision, or assistance  
14 essential for sustaining the activities of daily living or for the  
15 protection of the individual.

16 (3) Any swing bed in an acute care facility."

17 "**Sec. 4.** RCW 70.38.105 and 1989 1st ex.s. c 9 s 603 are each  
18 amended to read as follows:

19 (1) The department is authorized and directed to implement the  
20 certificate of need program in this state pursuant to the provisions of  
21 this chapter.

22 (2) There shall be a state certificate of need program which is  
23 administered consistent with the requirements of federal law as  
24 necessary to the receipt of federal funds by the state.

25 (3) No person shall engage in any undertaking which is subject to  
26 certificate of need review under subsection (4) of this section without  
27 first having received from the department either a certificate of need  
28 or an exception granted in accordance with this chapter.

1 (4) The following shall be subject to certificate of need review  
2 under this chapter:

3 (a) The construction, development, or other establishment of a new  
4 health care facility;

5 (b) The sale, purchase, or lease of part or all of any existing  
6 hospital as defined in RCW 70.38.025;

7 (c) Any capital expenditure for the construction, renovation, or  
8 alteration of a nursing home which substantially changes the services  
9 of the facility after January 1, 1981, provided that the substantial  
10 changes in services are specified by the department in rule;

11 (d) Any capital expenditure for the construction, renovation, or  
12 alteration of a nursing home which exceeds the expenditure minimum as  
13 defined by RCW 70.38.025. However, a capital expenditure which is not  
14 subject to certificate of need review under (a), (b), (c), or (e) of  
15 this subsection and which is solely for any one or more of the  
16 following is not subject to certificate of need review except to the  
17 extent required by the federal government as a condition to receipt of  
18 federal assistance and does not substantially affect patient charges:

19 (i) Communications and parking facilities;

20 (ii) Mechanical, electrical, ventilation, heating, and air  
21 conditioning systems;

22 (iii) Energy conservation systems;

23 (iv) Repairs to, or the correction of, deficiencies in existing  
24 physical plant facilities which are necessary to maintain state  
25 licensure;

26 (v) Acquisition of equipment, including data processing equipment,  
27 which is not or will not be used in the direct provision of health  
28 services;

1 (vi) Construction which involves physical plant facilities,  
2 including administrative and support facilities, which are not or will  
3 not be used for the provision of health services;

4 (vii) Acquisition of land; and

5 (viii) Refinancing of existing debt;

6 (e) A change in bed capacity of a health care facility which  
7 increases the total number of licensed beds or redistributes beds among  
8 acute care, ((skilled)) nursing((,~~—intermediate~~)) home care, and  
9 boarding home care if the bed redistribution is to be effective for a  
10 period in excess of six months;

11 (f) Any new tertiary health services which are offered in or  
12 through a health care facility, and which were not offered on a regular  
13 basis by, in, or through such health care facility within the twelve-  
14 month period prior to the time such services would be offered;

15 (g) Any expenditure for the construction, renovation, or alteration  
16 of a nursing home or change in nursing home services in excess of the  
17 expenditure minimum made in preparation for any undertaking under  
18 subsection (4) of this section and any arrangement or commitment made  
19 for financing such undertaking. Expenditures of preparation shall  
20 include expenditures for architectural designs, plans, working  
21 drawings, and specifications. The department may issue certificates of  
22 need permitting predevelopment expenditures, only, without authorizing  
23 any subsequent undertaking with respect to which such predevelopment  
24 expenditures are made; and

25 (h) Any increase in the number of dialysis stations in a kidney  
26 disease center.

27 (5) The department is authorized to charge fees for the review of  
28 certificate of need applications and requests for exemptions from  
29 certificate of need review. The fees shall be sufficient to cover the

1 full cost of review and exemption, which may include the development of  
2 standards, criteria, and policies.

3 (6) No person may divide a project in order to avoid review  
4 requirements under any of the thresholds specified in this section."

5 "Sec. 5. RCW 74.08.044 and 1975-'76 2nd ex.s. c 52 s 1 are each  
6 amended to read as follows:

7 The department is authorized to promulgate rules and regulations  
8 establishing eligibility for alternate living arrangements, and license  
9 the same, including minimum standards of care, based upon need for  
10 personal care and supervision beyond the level of board and room only,  
11 but less than the level of care required in a hospital or a ((skilled))  
12 nursing ((home)) facility as defined in the federal social security  
13 act."

14 "Sec. 6. RCW 74.09.250 and 1979 ex.s. c 152 s 6 are each amended  
15 to read as follows:

16 Any person, including any corporation, that knowingly makes or  
17 causes to be made, or induces or seeks to induce the making of, any  
18 false statement or representation of a material fact with respect to  
19 the conditions or operations of any institution or facility in order  
20 that such institution or facility may qualify (either upon initial  
21 certification or upon recertification) as a hospital, ((skilled))  
22 nursing facility, ((intermediate care facility,)) or home health  
23 agency, shall be guilty of a class C felony: PROVIDED, That the fine,  
24 if imposed, shall not be in an amount more than five thousand dollars."

25 "Sec. 7. RCW 74.09.260 and 1979 ex.s. c 152 s 7 are each amended  
26 to read as follows:

27 Any person, including any corporation, that knowingly:

1 (1) Charges, for any service provided to a patient under any  
2 medical care plan authorized under this chapter, money or other  
3 consideration at a rate in excess of the rates established by the  
4 department of social and health services(~~(  )~~)i or

5 (2) Charges, solicits, accepts, or receives, in addition to any  
6 amount otherwise required to be paid under such plan, any gift, money,  
7 donation, or other consideration (other than a charitable, religious,  
8 or philanthropic contribution from an organization or from a person  
9 unrelated to the patient):

10 (a) As a precondition of admitting a patient to a hospital(~~(~~  
11 ~~skilled))~~ or nursing facility(~~(  or intermediate care facility)~~)i or

12 (b) As a requirement for the patient's continued stay in such  
13 facility,

14 when the cost of the services provided therein to the patient is paid  
15 for, in whole or in part, under such plan, shall be guilty of a class  
16 C felony: PROVIDED, That the fine, if imposed, shall not be in an  
17 amount more than twenty-five thousand dollars, except as authorized by  
18 RCW 9A.20.030."

19 "**Sec. 8.** RCW 74.09.510 and 1989 1st ex.s. c 10 s 8 are each  
20 amended to read as follows:

21 Medical assistance may be provided in accordance with eligibility  
22 requirements established by the department of social and health  
23 services, as defined in the social security Title XIX state plan for  
24 mandatory categorically needy persons and: (1) Individuals who would  
25 be eligible for cash assistance except for their institutional status;  
26 (2) individuals who are under twenty-one years of age, who would be  
27 eligible for aid to families with dependent children, but do not  
28 qualify as dependent children and who are in (a) foster care, (b)  
29 subsidized adoption, (c) (~~(an intermediate care))~~ a nursing facility or



1 an intermediate care facility for the mentally retarded, or (d)  
2 inpatient psychiatric facilities; (3) the aged, blind, and disabled  
3 who: (a) Receive only a state supplement, or (b) would not be eligible  
4 for cash assistance if they were not institutionalized; (4) individuals  
5 who would be eligible for but choose not to receive cash assistance;  
6 (5) individuals who are enrolled in managed health care systems, who  
7 have otherwise lost eligibility for medical assistance, but who have  
8 not completed a current six-month enrollment in a managed health care  
9 system, and who are eligible for federal financial participation under  
10 Title XIX of the social security act; (6) children and pregnant women  
11 allowed by federal statute for whom funding is appropriated; and (7)  
12 other individuals eligible for medical services under RCW 74.09.035 and  
13 74.09.700 for whom federal financial participation is available under  
14 Title XIX of the social security act."

15       **"Sec. 9.** RCW 74.09.520 and 1991 c 233 s 1 and 1991 c 119 s 1 are  
16 each reenacted and amended to read as follows:

17       (1) The term "medical assistance" may include the following care  
18 and services: (a) Inpatient hospital services; (b) outpatient hospital  
19 services; (c) other laboratory and x-ray services; (d) (~~skilled~~)  
20 nursing (~~home~~) facility services; (e) physicians' services, which  
21 shall include prescribed medication and instruction on birth control  
22 devices; (f) medical care, or any other type of remedial care as may be  
23 established by the secretary; (g) home health care services; (h)  
24 private duty nursing services; (i) dental services; (j) physical and  
25 occupational therapy and related services; (k) prescribed drugs,  
26 dentures, and prosthetic devices; and eyeglasses prescribed by a  
27 physician skilled in diseases of the eye or by an optometrist,  
28 whichever the individual may select; (l) personal care services, as  
29 provided in this section; (m) hospice services; (n) other diagnostic,

1 screening, preventive, and rehabilitative services; and (o) like  
2 services when furnished to a handicapped child by a school district as  
3 part of an individualized education program established pursuant to RCW  
4 28A.155.010 through 28A.155.100. For the purposes of this section, the  
5 department may not cut off any prescription medications, oxygen  
6 supplies, respiratory services, or other life-sustaining medical  
7 services or supplies.

8 "Medical assistance," notwithstanding any other provision of law,  
9 shall not include routine foot care, or dental services delivered by  
10 any health care provider, that are not mandated by Title XIX of the  
11 social security act unless there is a specific appropriation for these  
12 services. Services included in an individualized education program for  
13 a handicapped child under RCW 28A.155.010 through 28A.155.100 shall not  
14 qualify as medical assistance prior to the implementation of the  
15 funding process developed under RCW 74.09.524.

16 (2) The department shall amend the state plan for medical  
17 assistance under Title XIX of the federal social security act to  
18 include personal care services, as defined in 42 C.F.R. 440.170(f), in  
19 the categorically needy program.

20 (3) The department shall adopt, amend, or rescind such  
21 administrative rules as are necessary to ensure that Title XIX personal  
22 care services are provided to eligible persons in conformance with  
23 federal regulations.

24 (a) These administrative rules shall include financial eligibility  
25 indexed according to the requirements of the social security act  
26 providing for medicaid eligibility.

27 (b) The rules shall require clients be assessed as having a medical  
28 condition requiring assistance with personal care tasks. Plans of care  
29 must be approved by a physician and reviewed by a nurse every ninety  
30 days.

1 (4) The department shall design and implement a means to assess the  
2 level of functional disability of persons eligible for personal care  
3 services under this section. The personal care services benefit shall  
4 be provided to the extent funding is available according to the  
5 assessed level of functional disability. Any reductions in services  
6 made necessary for funding reasons should be accomplished in a manner  
7 that assures that priority for maintaining services is given to persons  
8 with the greatest need as determined by the assessment of functional  
9 disability.

10 (5) The department shall report to the appropriate fiscal  
11 committees of the legislature on the utilization and associated costs  
12 of the personal care option under Title XIX of the federal social  
13 security act, as defined in 42 C.F.R. 440.170(f), in the categorically  
14 needy program. This report shall be submitted by January 1, 1990, and  
15 submitted on a yearly basis thereafter.

16 (6) Effective July 1, 1989, the department shall offer hospice  
17 services in accordance with available funds. The hospice benefit under  
18 this section shall terminate on June 30, 1993, unless extended by the  
19 legislature."

20 "Sec. 10. RCW 74.09.700 and 1991 c 233 s 2 are each amended to  
21 read as follows:

22 (1) To the extent of available funds, medical care may be provided  
23 under the limited casualty program to persons not otherwise eligible  
24 for medical assistance or medical care services who are medically needy  
25 as defined in the social security Title XIX state plan and medical  
26 indigents in accordance with medical eligibility requirements  
27 established by the department. This includes residents of ((skilled))  
28 nursing ((homes, intermediate care)) facilities((,)) and residents of  
29 intermediate care facilities for the mentally retarded who are aged,

1 blind, or disabled as defined in Title XVI of the federal social  
2 security act and whose income exceeds three hundred percent of the  
3 federal supplement security income benefit level.

4 (2) Determination of the amount, scope, and duration of medical  
5 coverage under the limited casualty program shall be the responsibility  
6 of the department, subject to the following:

7 (a) Only inpatient hospital services; outpatient hospital and rural  
8 health clinic services; physicians' and clinic services; prescribed  
9 drugs, dentures, prosthetic devices, and eyeglasses; ((skilled))  
10 nursing ((home)) facility services(~~(, intermediate care facility~~  
11 ~~services,))i and intermediate care facility services for the mentally  
12 retarded; home health services; other laboratory and x-ray services;  
13 rehabilitative services, including occupational therapy; medically  
14 necessary transportation; and other services for which funds are  
15 specifically provided in the omnibus appropriations act shall be  
16 covered;~~

17 (b) Persons who are medically indigent and are not eligible for a  
18 federal aid program shall satisfy a deductible of not less than one  
19 hundred dollars nor more than five hundred dollars in any twelve-month  
20 period;

21 (c) Medical care services provided to the medically indigent and  
22 received no more than seven days prior to the date of application shall  
23 be retroactively certified and approved for payment on behalf of a  
24 person who was otherwise eligible at the time the medical services were  
25 furnished: PROVIDED, That eligible persons who fail to apply within  
26 the seven-day time period for medical reasons or other good cause may  
27 be retroactively certified and approved for payment.

28 (3) The department shall establish standards of assistance and  
29 resource and income exemptions. All nonexempt income and resources of

1 limited casualty program recipients shall be applied against the cost  
2 of their medical care services."

3 "Sec. 11. RCW 74.46.020 and 1989 c 372 s 17 are each amended to  
4 read as follows:

5 Unless the context clearly requires otherwise, the definitions in  
6 this section apply throughout this chapter.

7 (1) "Accrual method of accounting" means a method of accounting in  
8 which revenues are reported in the period when they are earned,  
9 regardless of when they are collected, and expenses are reported in the  
10 period in which they are incurred, regardless of when they are paid.

11 (2) "Ancillary care" means those services required by the  
12 individual, comprehensive plan of care provided by qualified  
13 therapists.

14 (3) "Appraisal" means the process of estimating the fair market  
15 value or reconstructing the historical cost of an asset acquired in a  
16 past period as performed by a professionally designated real estate  
17 appraiser with no pecuniary interest in the property to be appraised.  
18 It includes a systematic, analytic determination and the recording and  
19 analyzing of property facts, rights, investments, and values based on  
20 a personal inspection and inventory of the property.

21 (4) "Arm's-length transaction" means a transaction resulting from  
22 good-faith bargaining between a buyer and seller who are not related  
23 organizations and have adverse positions in the market place. Sales or  
24 exchanges of nursing home facilities among two or more parties in which  
25 all parties subsequently continue to own one or more of the facilities  
26 involved in the transactions shall not be considered as arm's-length  
27 transactions for purposes of this chapter. Sale of a nursing home  
28 facility which is subsequently leased back to the seller within five

1 years of the date of sale shall not be considered as an arm's-length  
2 transaction for purposes of this chapter.

3 (5) "Assets" means economic resources of the contractor, recognized  
4 and measured in conformity with generally accepted accounting  
5 principles.

6 (6) "Bad debts" means amounts considered to be uncollectable from  
7 accounts and notes receivable.

8 (7) "Beds" means the number of set-up beds in the facility, not to  
9 exceed the number of licensed beds.

10 (8) "Beneficial owner" means:

11 (a) Any person who, directly or indirectly, through any contract,  
12 arrangement, understanding, relationship, or otherwise has or shares:

13 (i) Voting power which includes the power to vote, or to direct the  
14 voting of such ownership interest; and/or

15 (ii) Investment power which includes the power to dispose, or to  
16 direct the disposition of such ownership interest;

17 (b) Any person who, directly or indirectly, creates or uses a  
18 trust, proxy, power of attorney, pooling arrangement, or any other  
19 contract, arrangement, or device with the purpose or effect of  
20 divesting himself of beneficial ownership of an ownership interest or  
21 preventing the vesting of such beneficial ownership as part of a plan  
22 or scheme to evade the reporting requirements of this chapter;

23 (c) Any person who, subject to subparagraph (b) of this subsection,  
24 has the right to acquire beneficial ownership of such ownership  
25 interest within sixty days, including but not limited to any right to  
26 acquire:

27 (i) Through the exercise of any option, warrant, or right;

28 (ii) Through the conversion of an ownership interest;

29 (iii) Pursuant to the power to revoke a trust, discretionary  
30 account, or similar arrangement; or

1 (iv) Pursuant to the automatic termination of a trust,  
2 discretionary account, or similar arrangement;  
3 except that, any person who acquires an ownership interest or power  
4 specified in subparagraphs (i), (ii), or (iii) of this subparagraph (c)  
5 with the purpose or effect of changing or influencing the control of  
6 the contractor, or in connection with or as a participant in any  
7 transaction having such purpose or effect, immediately upon such  
8 acquisition shall be deemed to be the beneficial owner of the ownership  
9 interest which may be acquired through the exercise or conversion of  
10 such ownership interest or power;

11 (d) Any person who in the ordinary course of business is a pledgee  
12 of ownership interest under a written pledge agreement shall not be  
13 deemed to be the beneficial owner of such pledged ownership interest  
14 until the pledgee has taken all formal steps necessary which are  
15 required to declare a default and determines that the power to vote or  
16 to direct the vote or to dispose or to direct the disposition of such  
17 pledged ownership interest will be exercised; except that:

18 (i) The pledgee agreement is bona fide and was not entered into  
19 with the purpose nor with the effect of changing or influencing the  
20 control of the contractor, nor in connection with any transaction  
21 having such purpose or effect, including persons meeting the conditions  
22 set forth in subparagraph (b) of this subsection; and

23 (ii) The pledgee agreement, prior to default, does not grant to the  
24 pledgee:

25 (A) The power to vote or to direct the vote of the pledged  
26 ownership interest; or

27 (B) The power to dispose or direct the disposition of the pledged  
28 ownership interest, other than the grant of such power(s) pursuant to  
29 a pledge agreement under which credit is extended and in which the  
30 pledgee is a broker or dealer.

1 (9) "Capitalization" means the recording of an expenditure as an  
2 asset.

3 (10) "Contractor" means an entity which contracts with the  
4 department to provide services to medical care recipients in a facility  
5 and which entity is responsible for operational decisions.

6 (11) "Department" means the department of social and health  
7 services (DSHS) and its employees.

8 (12) "Depreciation" means the systematic distribution of the cost  
9 or other basis of tangible assets, less salvage, over the estimated  
10 useful life of the assets.

11 (13) "Direct care supplies" means medical, pharmaceutical, and  
12 other supplies required for the direct nursing and ancillary care of  
13 medical care recipients.

14 (14) "Entity" means an individual, partnership, corporation, or any  
15 other association of individuals capable of entering enforceable  
16 contracts.

17 (15) "Equity" means the net book value of all tangible and  
18 intangible assets less the recorded value of all liabilities, as  
19 recognized and measured in conformity with generally accepted  
20 accounting principles.

21 (16) "Facility" means a nursing home licensed in accordance with  
22 chapter 18.51 RCW, excepting nursing homes certified as institutions  
23 for mental diseases, or that portion of a hospital licensed in  
24 accordance with chapter 70.41 RCW which operates as a nursing home.

25 (17) "Fair market value" means the replacement cost of an asset  
26 less observed physical depreciation on the date for which the market  
27 value is being determined.

28 (18) "Financial statements" means statements prepared and presented  
29 in conformity with generally accepted accounting principles including,



1 but not limited to, balance sheet, statement of operations, statement  
2 of changes in financial position, and related notes.

3 (19) "Gain on sale" means the difference between the total net book  
4 value of nursing home assets, including but not limited to land,  
5 building and equipment, and the total sales price of all such assets.

6 (20) "Generally accepted accounting principles" means accounting  
7 principles approved by the financial accounting standards board (FASB).

8 ~~((20))~~ (21) "Generally accepted auditing standards" means  
9 auditing standards approved by the American institute of certified  
10 public accountants (AICPA).

11 ~~((21))~~ (22) "Goodwill" means the excess of the price paid for a  
12 business over the fair market value of all other identifiable,  
13 tangible, and intangible assets acquired.

14 ~~((22))~~ (23) "Historical cost" means the actual cost incurred in  
15 acquiring and preparing an asset for use, including feasibility  
16 studies, architect's fees, and engineering studies.

17 ~~((23))~~ (24) "Imprest fund" means a fund which is regularly  
18 replenished in exactly the amount expended from it.

19 ~~((24))~~ (25) "Joint facility costs" means any costs which  
20 represent resources which benefit more than one facility, or one  
21 facility and any other entity.

22 ~~((25))~~ (26) "Lease agreement" means a contract between two  
23 parties for the possession and use of real or personal property or  
24 assets for a specified period of time in exchange for specified  
25 periodic payments. Elimination (due to any cause other than death or  
26 divorce) or addition of any party to the contract, expiration, or  
27 modification of any lease term in effect on January 1, 1980, or  
28 termination of the lease by either party by any means shall constitute  
29 a termination of the lease agreement. An extension or renewal of a  
30 lease agreement, whether or not pursuant to a renewal provision in the

1 lease agreement, shall be considered a new lease agreement. A strictly  
2 formal change in the lease agreement which modifies the method,  
3 frequency, or manner in which the lease payments are made, but does not  
4 increase the total lease payment obligation of the lessee, shall not be  
5 considered modification of a lease term.

6 ~~((+26+))~~ (27) "Medical care program" means medical assistance  
7 provided under RCW 74.09.500 or authorized state medical care services.

8 ~~((+27+))~~ (28) "Medical care recipient" or "recipient" means an  
9 individual determined eligible by the department for the services  
10 provided in chapter 74.09 RCW.

11 ~~((+28+))~~ (29) "Net book value" means the historical cost of an  
12 asset less accumulated depreciation.

13 ~~((+29+))~~ (30) "Net invested funds" means the net book value of  
14 tangible fixed assets employed by a contractor to provide services  
15 under the medical care program, including land, buildings, and  
16 equipment as recognized and measured in conformity with generally  
17 accepted accounting principles, plus an allowance for working capital  
18 which shall be five percent of the allowable costs of each contractor  
19 for the previous calendar year.

20 ~~((+30+))~~ (31) "Operating lease" means a lease under which rental or  
21 lease expenses are included in current expenses in accordance with  
22 generally accepted accounting principles.

23 ~~((+31+))~~ (32) "Owner" means a sole proprietor, general or limited  
24 partners, and beneficial interest holders of five percent or more of a  
25 corporation's outstanding stock.

26 ~~((+32+))~~ (33) "Ownership interest" means all interests beneficially  
27 owned by a person, calculated in the aggregate, regardless of the form  
28 which such beneficial ownership takes.

29 ~~((+33+))~~ (34) "Patient day" or "client day" means a calendar day of  
30 care which will include the day of admission and exclude the day of

1 discharge; except that, when admission and discharge occur on the same  
2 day, one day of care shall be deemed to exist.

3       (~~(34)~~) (35) "Professionally designated real estate appraiser"  
4 means an individual who is regularly engaged in the business of  
5 providing real estate valuation services for a fee, and who is deemed  
6 qualified by a nationally recognized real estate appraisal educational  
7 organization on the basis of extensive practical appraisal experience,  
8 including the writing of real estate valuation reports as well as the  
9 passing of written examinations on valuation practice and theory, and  
10 who by virtue of membership in such organization is required to  
11 subscribe and adhere to certain standards of professional practice as  
12 such organization prescribes.

13       (~~(35)~~) (36) "Qualified therapist" means:

14       (a) An activities specialist who has specialized education,  
15 training, or experience as specified by the department;

16       (b) An audiologist who is eligible for a certificate of clinical  
17 competence in audiology or who has the equivalent education and  
18 clinical experience;

19       (c) A mental health professional as defined by chapter 71.05 RCW;

20       (d) A mental retardation professional who is either a qualified  
21 therapist or a therapist approved by the department who has had  
22 specialized training or one year's experience in treating or working  
23 with the mentally retarded or developmentally disabled;

24       (e) A social worker who is a graduate of a school of social work;

25       (f) A speech pathologist who is eligible for a certificate of  
26 clinical competence in speech pathology or who has the equivalent  
27 education and clinical experience;

28       (g) A physical therapist as defined by chapter 18.74 RCW; and

1 (h) An occupational therapist who is a graduate of a program in  
2 occupational therapy, or who has the equivalent of such education or  
3 training.

4 (~~(36)~~) (37) "Questioned costs" means those costs which have been  
5 determined in accordance with generally accepted accounting principles  
6 but which may constitute disallowed costs or departures from the  
7 provisions of this chapter or rules and regulations adopted by the  
8 department.

9 (~~(37)~~) (38) "Records" means those data supporting all financial  
10 statements and cost reports including, but not limited to, all general  
11 and subsidiary ledgers, books of original entry, and transaction  
12 documentation, however such data are maintained.

13 (~~(38)~~) (39) "Related organization" means an entity which is under  
14 common ownership and/or control with, or has control of, or is  
15 controlled by, the contractor.

16 (a) "Common ownership" exists when an entity is the beneficial  
17 owner of five percent or more ownership interest in the contractor and  
18 any other entity.

19 (b) "Control" exists where an entity has the power, directly or  
20 indirectly, significantly to influence or direct the actions or  
21 policies of an organization or institution, whether or not it is  
22 legally enforceable and however it is exercisable or exercised.

23 (~~(39)~~) (40) "Restricted fund" means those funds the principal  
24 and/or income of which is limited by agreement with or direction of the  
25 donor to a specific purpose.

26 (~~(40)~~) (41) "Secretary" means the secretary of the department of  
27 social and health services.

28 (~~(41)~~) (42) "Title XIX" or "Medicaid" means the 1965 amendments  
29 to the social security act, P.L. 89-07, as amended.

1        (~~(42)~~) (43) "Physical plant capital improvement" means a  
2 capitalized improvement that is limited to an improvement to the  
3 building or the related physical plant."

4        "**Sec. 12.** RCW 74.46.380 and 1980 c 177 s 38 are each amended to  
5 read as follows:

6        (1) Where depreciable assets are disposed of through sale, trade-  
7 in, scrapping, exchange, theft, wrecking, or fire or other casualty,  
8 depreciation shall no longer be taken on the assets. No further  
9 depreciation shall be taken on permanently abandoned assets.

10        (2) Where an asset has been retired from active use but is being  
11 held for stand-by or emergency service, and the department has  
12 determined that it is needed and can be effectively used in the future,  
13 depreciation may be taken.

14        (3) If there is a sale of a nursing facility on or after July 1,  
15 1991, that results in a gain on sale, the actual reimbursement for  
16 depreciation paid to the selling contractor through the medicaid  
17 reimbursement program shall be recovered by the department to the  
18 extent of any gain on sale. The purchaser is obligated to reimburse  
19 the department, whether or not the purchaser is a medicaid contractor.  
20 If the department is unable to collect from the purchaser, then the  
21 seller is responsible for reimbursing the department. The department  
22 may establish an appropriate repayment schedule to recover  
23 depreciation. If the purchaser is a medicaid contractor and the  
24 contractor does not comply with the repayment schedule established by  
25 the department, the department may deduct the recovery from the  
26 contractor's monthly medicaid payments. The department may adopt  
27 rules, as appropriate, to insure that the principles of this section  
28 are implemented with respect to leased assets, or with respect to sales  
29 of intangibles or specific assets only."

1       **"Sec. 13.** RCW 74.46.660 and 1980 c 177 s 66 are each amended to  
2 read as follows:

3       In order to participate in the prospective cost-related  
4 reimbursement system established by this chapter, the person or legal  
5 organization responsible for operation of a facility shall:

6       (1) Obtain a state certificate of need and/or federal capital  
7 expenditure review (section 1122) approval pursuant to chapter 70.38  
8 RCW and Part 100, Title 42 CFR where required;

9       (2) Hold the appropriate current license;

10       (3) Hold current Title XIX certification;

11       (4) Hold a current contract to provide services under this chapter;  
12 ~~((and))~~

13       (5) Comply with all provisions of the contract and all application  
14 regulations, including but not limited to the provisions of this  
15 chapter; and

16       (6) Obtain and maintain medicare certification, under Title XVIII  
17 of the social security act, 42 U.S.C. Sec. 1395, as amended, for no  
18 less than fifteen percent of the facility's licensed beds."

19       **"Sec. 14.** RCW 74.46.210 and 1980 c 177 s 21 are each amended to  
20 read as follows:

21       ~~((All necessary and ordinary expenses a contractor incurs in~~  
22 ~~providing care services will be allowable costs.))~~   All documented  
23 costs that are ordinary, necessary, and related to the care of medical  
24 care recipients and are not expressly unallowable will be allowable  
25 costs. These expenses include:

26       (1) Meeting licensing and certification standards;

27       (2) Meeting standards of providing regular room, nursing,  
28 ancillary, and dietary services, as established by department rule and  
29 regulation pursuant to chapter 211, Laws of 1979 ex. sess.; and

1 (3) Fulfilling accounting and reporting requirements imposed by  
2 this chapter."

3 "Sec. 15. RCW 74.46.410 and 1989 c 372 s 2 are each amended to  
4 read as follows:

5 (1) Costs will be unallowable if they are not documented,  
6 necessary, ordinary, and related to the provision of care services to  
7 authorized patients.

8 (2) Unallowable costs include, but are not limited to, the  
9 following:

10 (a) Costs of items or services not covered by the medical care  
11 program. Costs of such items or services will be unallowable even if  
12 they are indirectly reimbursed by the department as the result of an  
13 authorized reduction in patient contribution;

14 (b) Costs of services and items provided to recipients which are  
15 covered by the department's medical care program but not included in  
16 care services established by the department under this chapter;

17 (c) Costs associated with a capital expenditure subject to section  
18 1122 approval (part 100, Title 42 C.F.R.) if the department found it  
19 was not consistent with applicable standards, criteria, or plans. If  
20 the department was not given timely notice of a proposed capital  
21 expenditure, all associated costs will be unallowable up to the date  
22 they are determined to be reimbursable under applicable federal  
23 regulations;

24 (d) Costs associated with a construction or acquisition project  
25 requiring certificate of need approval pursuant to chapter 70.38 RCW if  
26 such approval was not obtained;

27 (e) Interest costs other than those provided by RCW 74.46.290 on  
28 and after the effective date of RCW 74.46.530;

1 (f) Salaries or other compensation of owners, officers, directors,  
2 stockholders, and others associated with the contractor or home office,  
3 except compensation paid for service related to patient care;

4 (g) Costs in excess of limits or in violation of principles set  
5 forth in this chapter;

6 (h) Costs resulting from transactions or the application of  
7 accounting methods which circumvent the principles of the cost-related  
8 reimbursement system set forth in this chapter;

9 (i) Costs applicable to services, facilities, and supplies  
10 furnished by a related organization in excess of the lower of the cost  
11 to the related organization or the price of comparable services,  
12 facilities, or supplies purchased elsewhere;

13 (j) Bad debts of non-Title XIX recipients. Bad debts of Title XIX  
14 recipients are allowable if the debt is related to covered services, it  
15 arises from the recipient's required contribution toward the cost of  
16 care, the provider can establish that reasonable collection efforts  
17 were made, the debt was actually uncollectible when claimed as  
18 worthless, and sound business judgment established that there was no  
19 likelihood of recovery at any time in the future;

20 (k) Charity and courtesy allowances;

21 (l) Cash, assessments, or other contributions, excluding dues, to  
22 charitable organizations, professional organizations, trade  
23 associations, or political parties, and costs incurred to improve  
24 community or public relations;

25 (m) Vending machine expenses;

26 (n) Expenses for barber or beautician services not included in  
27 routine care;

28 (o) Funeral and burial expenses;

29 (p) Costs of gift shop operations and inventory;



1 (q) Personal items such as cosmetics, smoking materials, newspapers  
2 and magazines, and clothing, except those used in patient activity  
3 programs;

4 (r) Fund-raising expenses, except those directly related to the  
5 patient activity program;

6 (s) Penalties and fines;

7 (t) Expenses related to telephones, televisions, radios, and  
8 similar appliances in patients' private accommodations;

9 (u) Federal, state, and other income taxes;

10 (v) Costs of special care services except where authorized by the  
11 department;

12 (w) Expenses of key-man insurance and other insurance or retirement  
13 plans not made available to all employees;

14 (x) Expenses of profit-sharing plans;

15 (y) Expenses related to the purchase and/or use of private or  
16 commercial airplanes which are in excess of what a prudent contractor  
17 would expend for the ordinary and economic provision of such a  
18 transportation need related to patient care;

19 (z) Personal expenses and allowances of owners or relatives;

20 (aa) All expenses of maintaining professional licenses or  
21 membership in professional organizations;

22 (bb) Costs related to agreements not to compete;

23 (cc) Amortization of goodwill;

24 (dd) Expenses related to vehicles which are in excess of what a  
25 prudent contractor would expend for the ordinary and economic provision  
26 of transportation needs related to patient care;

27 (ee) Legal and consultant fees in connection with a fair hearing  
28 against the department where a decision is rendered in favor of the  
29 department or where otherwise the determination of the department  
30 stands;

1 (ff) Legal and consultant fees of a contractor or contractors in  
2 connection with a lawsuit against the department;

3 (gg) Lease acquisition costs and other intangibles not related to  
4 patient care;

5 (hh) All rental or lease costs other than those provided in RCW  
6 74.46.300 on and after the effective date of RCW 74.46.510 and  
7 74.46.530;

8 (ii) Postsurvey charges incurred by the facility as a result of  
9 subsequent inspections under RCW 18.51.050 which occur beyond the first  
10 postsurvey visit during the certification survey calendar year;

11 (jj) Costs and fees otherwise allowable for legal services, whether  
12 purchased, allocated by a home office, regional office or management  
13 company, or performed by the contractor or employees of the contractor,  
14 in excess of the eighty-fifth percentile of such costs reported by all  
15 contractors for the most recent cost report period: PROVIDED, That this  
16 limit shall not apply if a contractor has not exceeded this percentile  
17 in any of the preceding three annual cost report periods;

18 (kk) Costs and fees otherwise allowable for accounting and  
19 bookkeeping services, whether purchased, allocated by a home office,  
20 regional office or management company, or performed by the contractor  
21 or employees of the contractor, in excess of the eighty-fifth  
22 percentile of such costs reported by all contractors for the most  
23 recent cost report period: PROVIDED, That this limit shall not apply  
24 if a contractor has not exceeded this percentile in any of the  
25 preceding three annual cost report periods;

26 (ll) Compensation paid for any purchased nursing care services,  
27 including registered nurse, licensed practical nurse, and nurse  
28 assistant services, obtained through service contract arrangement in  
29 excess of the amount of compensation paid for such hours of nursing  
30 care service had they been paid at the average hourly wage, including

1 related taxes and benefits, for in-house nursing care staff of like  
2 classification at the same nursing facility, as reported in the most  
3 recent cost report period;

4 (mm) For all partial or whole rate periods after July 17, 1984,  
5 costs of land and depreciable assets that cannot be reimbursed under  
6 the Deficit Reduction Act of 1984 and implementing state statutory and  
7 regulatory provisions."

8 "Sec. 16. RCW 74.46.481 and 1990 c 207 s 1 are each amended to  
9 read as follows:

10 (1) The nursing services cost center shall include all costs  
11 related to the direct provision of nursing and related care, including  
12 fringe benefits and payroll taxes for the nursing and related care  
13 personnel. For rates effective for state fiscal year 1984, the  
14 department shall adopt by administrative rule a definition of "related  
15 care" which shall incorporate, but not exceed services reimbursable as  
16 of June 30, 1983. For rates effective for state fiscal year 1985, the  
17 definition of related care shall include ancillary care. For rates  
18 effective after June 30, 1991, nursing services costs, as reimbursed  
19 within this chapter and as tested for reasonableness within this  
20 section, shall not include costs of any purchased nursing care  
21 services, including registered nurse, licensed practical nurse, and  
22 nurse assistant services, obtained through service contract arrangement  
23 in excess of the amount of compensation paid for such hours of nursing  
24 care service had they been paid at the average hourly wage, including  
25 related taxes and benefits, for in-house nursing care staff of like  
26 classification at the same nursing facility, as reported in the most  
27 recent cost report period.

1 (2) The department shall adopt by administrative rules a method for  
2 establishing a nursing services cost center rate consistent with the  
3 principles stated in this section.

4 (3) Utilizing regression or other statistical technique, the  
5 department shall determine a reasonable limit on facility nursing staff  
6 taking into account facility patient characteristics. For purposes of  
7 this section, facility nursing staff refers to registered nurses,  
8 licensed practical nurses and nursing assistants employed by the  
9 facility or obtained through temporary labor contract arrangements.  
10 Effective January 1, 1988, the hours associated with the training of  
11 nursing assistants and the supervision of that training for nursing  
12 assistants shall not be included in the calculation of facility nursing  
13 staff. In selecting a measure of patient characteristics, the  
14 department shall take into account:

15 (a) The correlation between alternative measures and facility  
16 nursing staff; and

17 (b) The cost of collecting information for and computation of a  
18 measure.

19 If regression is used, the limit shall be set at predicted nursing  
20 staff plus 1.75 regression standard errors. If another statistical  
21 method is utilized, the limit shall be set at a level corresponding to  
22 1.75 standard errors above predicted staffing computed according to a  
23 regression procedure.

24 (4) No facility shall receive reimbursement for nursing staff  
25 levels in excess of the limit, except that, if a facility was  
26 reimbursed for a nursing staff level in excess of the limit as of June  
27 30, 1983, the facility may chose to continue to receive its June, 1983  
28 nursing services rate plus any adjustments in rates, such as  
29 adjustments for economic trends, made available to all facilities.  
30 However, nursing staff levels established under subsection (3) of this

1 section shall not apply to the nursing services cost center  
2 reimbursement rate for the pilot facility especially designed to meet  
3 the needs of persons living with AIDS as defined by RCW 70.24.017 and  
4 specifically authorized for this purpose under the 1989 amendment to  
5 the Washington state health plan [1989 1st ex.s. c 9]. The  
6 reasonableness limit established pursuant to this subsection shall  
7 remain in effect for the period July 1, 1983 through June 30, 1985. At  
8 that time the department may revise the measure of patient  
9 characteristics or method used to establish the limit.

10 (5) The department shall select an index of cost increase relevant  
11 to the nursing and related services cost area. In the absence of a  
12 more representative index, the department shall use the medical care  
13 component index as maintained by the United States bureau of labor  
14 statistics.

15 (6) If a facility's nursing staff level is below the limit  
16 specified in subsection (3) of this section, the department shall  
17 determine the percentage increase for all items included in the nursing  
18 services cost center between the facility's most recent cost reporting  
19 period and the next prior cost reporting period.

20 (a) If the percentage cost increase for a facility is below the  
21 increase in the selected index for the same time period, the facility's  
22 reimbursement rate in the nursing services cost center shall equal the  
23 facility's cost from the most recent cost reporting period plus any  
24 allowance for inflation provided by legislative appropriation.

25 (b) If the percentage cost increase for a facility exceeds the  
26 increase in the selected index, the department shall limit the cost  
27 used for setting the facility's rate in the nursing services cost area  
28 to a level reflecting the increase in the selected index.

29 (7) If the facility's nursing staff level exceeds the  
30 reasonableness limit established in subsection (3) of this section, the

1 department shall determine the increase for all items included in the  
2 nursing services cost center between the facility's most recent cost  
3 reporting period and the next prior cost reporting period.

4 (a) If the percentage cost increase for a facility is below the  
5 increase in the index selected pursuant to subsection (5) of this  
6 section, the facility's reimbursement rate in the nursing cost center  
7 shall equal the facility's cost from the most recent cost reporting  
8 period adjusted downward to reflect the limit on nursing staff, plus  
9 any allowance for inflation provided by legislative appropriation  
10 subject to the provisions of subsection (4) of this section.

11 (b) If the percentage cost increase for a facility exceeds the  
12 increase in the selected index, the department shall limit the cost  
13 used for setting the facility's rate in the nursing services cost  
14 center to a level reflecting the nursing staff limit and the cost  
15 increase limit, subject to the provisions of subsection (4) of this  
16 section, plus any allowance for inflation provided by legislative  
17 appropriation.

18 (8) Prospective rates for the nursing services cost center, for  
19 state fiscal year 1992 only, shall not be subject to the cost growth  
20 index lid in subsections (5), (6), and (7) of this section. The lid  
21 shall apply for state fiscal year 1991 rate setting and all state  
22 fiscal years subsequent to fiscal year 1992.

23 (9) The department is authorized to determine on a systematic basis  
24 facilities with unmet patient care service needs. The department may  
25 increase the nursing services cost center prospective rate for a  
26 facility beyond the level determined in accordance with subsection (6)  
27 of this section if the facility's actual and reported nursing staffing  
28 is one standard error or more below predicted staffing as determined  
29 according to the method selected pursuant to subsection (3) of this  
30 section and the facility has unmet patient care service needs:

1 PROVIDED, That prospective rate increases authorized by this subsection  
2 shall be funded only from legislative appropriations made for this  
3 purpose and the increases shall be conditioned on specified  
4 improvements in patient care at such facilities.

5 ~~((9))~~ (10) The department shall establish a method for  
6 identifying patients with exceptional care requirements and a method  
7 for establishing or negotiating on a consistent basis rates for such  
8 patients.

9 ~~((10))~~ (11) The department, in consultation with interested  
10 parties, shall adopt rules to establish the criteria the department  
11 will use in reviewing any requests by a contractor for a prospective  
12 rate adjustment to be used to increase the number of nursing staff.  
13 These rules shall also specify the time period for submission and  
14 review of staffing requests: PROVIDED, That a decision on a staffing  
15 request shall not take longer than sixty days from the date the  
16 department receives such a complete request. In establishing the  
17 criteria, the department may consider, but is not limited to, the  
18 following:

- 19 (a) Increases in acuity levels of contractors' residents;
- 20 (b) Staffing patterns for similar facilities;
- 21 (c) Physical plant of contractor; and
- 22 (d) Survey, inspection of care, and department consultation  
23 results."

24 **"Sec. 17.** RCW 74.46.530 and 1985 c 361 s 17 are each amended to  
25 read as follows:

26 (1) The department shall establish for individual facilities return  
27 on investment allowances composed of two parts: A financing allowance  
28 and a variable return allowance.

1 (a) The financing allowance shall be determined by multiplying the  
2 net invested funds of each facility by ~~((-11))~~ .10, and dividing by the  
3 contractor's total patient days. If a capitalized addition or  
4 retirement of an asset will result in a different licensed bed capacity  
5 during the ensuing period, the prior period total patient days used in  
6 computing the financing and variable return allowances shall be  
7 adjusted to the anticipated patient day level.

8 (b) In computing the portion of net invested funds representing the  
9 net book value of tangible fixed assets, the same assets, depreciation  
10 bases, lives, and methods referred to in RCW 74.46.330, 74.46.350,  
11 74.46.360, ~~((and))~~ 74.46.370, and 74.46.380, including owned and leased  
12 assets, shall be utilized, except that the capitalized cost of land  
13 upon which the facility is located and such other contiguous land which  
14 is reasonable and necessary for use in the regular course of providing  
15 patient care shall also be included. Subject to provisions and  
16 limitations contained in this chapter, for land purchased by owners or  
17 lessors before July 18, 1984, capitalized cost of land shall be the  
18 buyer's capitalized cost. For all partial or whole rate periods after  
19 July 17, 1984, if the land is purchased after July 17, 1984,  
20 capitalized cost shall be that of the owner of record on July 17, 1984,  
21 or buyer's capitalized cost, whichever is lower. In the case of leased  
22 facilities where the net invested funds are unknown or the contractor  
23 is unable to provide necessary information to determine net invested  
24 funds, the secretary shall have the authority to determine an amount  
25 for net invested funds based on an appraisal conducted according to RCW  
26 74.46.360(1).

27 (c) In determining the variable return allowance:

28 (i) The department will first rank all facilities in numerical  
29 order from highest to lowest according to their average per diem



1 allowable costs for the sum of the administration and operations and  
2 property cost centers for the previous cost report period.

3 (ii) The department shall then compute the variable return  
4 allowance by multiplying the appropriate percentage amounts, which  
5 shall not be less than one percent and not greater than four percent,  
6 by the total prospective rate for each facility, as determined in RCW  
7 74.46.450 through 74.46.510. The percentage amounts will be based on  
8 groupings of facilities according to the rankings as established in  
9 ~~((subparagraph (1)(b)(i)))~~ (i) of this ~~((section))~~ subsection (1)(c).  
10 Those groups of facilities with lower per diem costs shall receive  
11 higher percentage amounts than those with higher per diem costs.

12 (d) The sum of the financing allowance and the variable return  
13 allowance shall be the return on investment for each facility, and  
14 shall be added to the prospective rates of each contractor as  
15 determined in RCW 74.46.450 through 74.46.510.

16 (e) In the case of a facility which was leased by the contractor as  
17 of January 1, 1980, in an arm's-length agreement, which continues to be  
18 leased under the same lease agreement, and for which the annualized  
19 lease payment, plus any interest and depreciation expenses associated  
20 with contractor-owned assets, for the period covered by the prospective  
21 rates, divided by the contractor's total patient days, minus the  
22 property cost center determined according to RCW 74.46.510, is more  
23 than the return on investment allowance determined according to  
24 subsection (1)(d) of this section, the following shall apply:

25 (i) The financing allowance shall be recomputed substituting the  
26 fair market value of the assets as of January 1, 1982, as determined by  
27 the department of general administration through an appraisal  
28 procedure, less accumulated depreciation on the lessor's assets since  
29 January 1, 1982, for the net book value of the assets in determining  
30 net invested funds for the facility. A determination by the department

1 of general administration of fair market value shall be final unless  
2 the procedure used to make such determination is shown to be arbitrary  
3 and capricious.

4 (ii) The sum of the financing allowance computed under subsection  
5 (1)(e)(i) of this section and the variable allowance shall be compared  
6 to the annualized lease payment, plus any interest and depreciation  
7 expenses associated with contractor-owned assets, for the period  
8 covered by the prospective rates, divided by the contractor's total  
9 patient days, minus the property cost center rate determined according  
10 to RCW 74.46.510. The lesser of the two amounts shall be called the  
11 alternate return on investment allowance.

12 (iii) The return on investment allowance determined according to  
13 subsection (1)(d) of this section or the alternate return on investment  
14 allowance, whichever is greater, shall be the return on investment  
15 allowance for the facility and shall be added to the prospective rates  
16 of the contractor as determined in RCW 74.46.450 through 74.46.510.

17 (f) In the case of a facility which was leased by the contractor as  
18 of January 1, 1980, in an arm's-length agreement, if the lease is  
19 renewed or extended pursuant to a provision of the lease, the treatment  
20 provided in subsection (1)(e) of this section shall be applied except  
21 that in the case of renewals or extensions made subsequent to April 1,  
22 1985, reimbursement for the annualized lease payment shall be no  
23 greater than the reimbursement for the annualized lease payment for the  
24 last year prior to the renewal or extension of the lease.

25 (2) In the event that the department of health and human services  
26 disallows the application of the return on investment allowances to  
27 nonprofit facilities, the department shall modify the measurements of  
28 net invested funds used for computing individual facility return on  
29 investment allowances as follows: Net invested funds for each

1 nonprofit facility shall be multiplied by one minus the ratio of equity  
2 funds to the net invested funds of all nonprofit facilities.

3 (3) Each biennium, beginning in 1985, the secretary shall review  
4 the adequacy of return on investment allowances in relation to  
5 anticipated requirements for maintaining, reducing, or expanding  
6 nursing care capacity. The secretary shall report the results of such  
7 review to the legislature and make recommendations for adjustments in  
8 the return on investment rates utilized in this section, if  
9 appropriate."

10 "Sec. 18. RCW 74.46.360 and 1989 c 372 s 14 are each amended to  
11 read as follows:

12 (1) For all partial or whole rate periods after December 31, 1984,  
13 the cost basis of land and depreciation base of depreciable assets  
14 shall be the historical cost of the contractor or lessor, when the  
15 assets are leased by the contractor, in acquiring the asset in an  
16 arm's-length transaction and preparing it for use, less goodwill, and  
17 less accumulated depreciation, if applicable, which has been incurred  
18 during periods that the assets have been used in or as a facility by  
19 any contractor, such accumulated depreciation to be measured in  
20 accordance with subsections (2), (3), and (4) of this section and RCW  
21 74.46.350 and 74.46.370. If the department challenges the historical  
22 cost of an asset, or if the contractor cannot or will not provide the  
23 historical costs, the department will have the department of general  
24 administration, through an appraisal procedure, determine the fair  
25 market value of the assets at the time of purchase. The cost basis of  
26 land and depreciation base of ((the)) depreciable assets will not  
27 exceed such fair market value.

1 (2) The historical cost of depreciable and nondepreciable donated  
2 assets, or of depreciable and nondepreciable assets received through  
3 testate or intestate distribution, shall be the lesser of:

4 (a) Fair market value at the date of donation or death; or

5 (b) The historical cost base of the owner last contracting with the  
6 department, if any.

7 (3) Estimated salvage value of acquired, donated, or inherited  
8 assets shall be deducted from historical cost where the straight-line  
9 or sum-of-the-years' digits method of depreciation is used.

10 (4) (a) Where land or depreciable assets are acquired that were  
11 used in the medical care program subsequent to January 1, 1980, the  
12 cost basis or depreciation base of the assets will not exceed the net  
13 book value which did exist or would have existed had the assets  
14 continued in use under the previous contract with the department;  
15 except that depreciation shall not be assumed to accumulate during  
16 periods when the assets were not in use in or as a facility.

17 (b) The provisions of (a) of this subsection shall not apply to the  
18 most recent arm's-length acquisition if it occurs at least ten years  
19 after the ownership of the assets has been previously transferred in an  
20 arm's-length transaction nor to the first arm's-length acquisition that  
21 occurs after January 1, 1980, for facilities participating in the  
22 medical care program prior to January 1, 1980. The new cost basis or  
23 depreciation base for such acquisitions shall not exceed the fair  
24 market value of the assets as determined by the department of general  
25 administration through an appraisal procedure. A determination by the  
26 department of general administration of fair market value shall be  
27 final unless the procedure used to make such determination is shown to  
28 be arbitrary and capricious. For all partial or whole rate periods  
29 after July 17, 1984, this subsection is inoperative for any transfer of  
30 ownership of any asset, depreciable or nondepreciable, occurring on or

1 after July 18, 1984, leaving (a) of this subsection to apply alone to  
2 such transfers: PROVIDED, HOWEVER, That this subsection shall apply to  
3 transfers of ownership of assets occurring prior to January 1, 1985, if  
4 the costs of such assets have never been reimbursed under medicaid cost  
5 reimbursement on an owner-operated basis or as a related-party lease:  
6 PROVIDED FURTHER, That for any contractor that can document in writing  
7 an enforceable agreement for the purchase of a nursing home dated prior  
8 to July 18, 1984, and submitted to the department prior to January 1,  
9 1988, the cost basis of allowable land and the depreciation base of the  
10 nursing home, for rates established after July 18, 1984, shall not  
11 exceed the fair market value of the assets at the date of purchase as  
12 determined by the department of general administration through an  
13 appraisal procedure. For medicaid cost reimbursement purposes, an  
14 agreement to purchase a nursing home dated prior to July 18, 1984, is  
15 enforceable, even though such agreement contains no legal description  
16 of the real property involved, notwithstanding the statute of frauds or  
17 any other provision of law.

18 (c) In the case of land or depreciable assets leased by the same  
19 contractor since January 1, 1980, in an arm's-length lease, and  
20 purchased by the lessee/contractor, the lessee/contractor shall have  
21 the option:

22 (i) To have the provisions of subsection (b) of this section apply  
23 to the purchase; or

24 (ii) To have the reimbursement for property and return on  
25 investment continue to be calculated pursuant to the provisions  
26 contained in RCW 74.46.530(1) (e) and (f) based upon the provisions of  
27 the lease in existence on the date of the purchase, but only if the  
28 purchase date meets one of the following criteria:

1 (A) The purchase date is after the lessor has declared bankruptcy  
2 or has defaulted in any loan or mortgage held against the leased  
3 property;

4 (B) The purchase date is within one year of the lease expiration or  
5 renewal date contained in the lease;

6 (C) The purchase date is after a rate setting for the facility in  
7 which the reimbursement rate set pursuant to this chapter no longer is  
8 equal to or greater than the actual cost of the lease; or

9 (D) The purchase date is within one year of any purchase option in  
10 existence on January 1, 1988.

11 (d) For all rate periods past or future where land or depreciable  
12 assets are acquired from a related organization, the contractor's cost  
13 basis and depreciation base shall not exceed the base the related  
14 organization had or would have had under a contract with the  
15 department.

16 (e) Where the land or depreciable asset is a donation or  
17 distribution between related organizations, the cost basis or  
18 depreciation base shall be the lesser of (i) fair market value, less  
19 salvage value, or (ii) the cost basis or depreciation base the related  
20 organization had or would have had for the asset under a contract with  
21 the department."

22 "Sec. 19. RCW 74.46.700 and 1980 c 177 s 70 are each amended to  
23 read as follows:

24 ((1)) Each ((contractor)) nursing home shall establish and  
25 maintain, as a service to the ((medical care recipient)) resident, a  
26 bookkeeping system incorporated into the business records for all  
27 ((recipient)) resident moneys entrusted to the contractor and received  
28 by the facility for the ((recipient)) resident.

29 ((2) Such system will apply to a recipient who is:

1       ~~(a) Incapable of handling his or her own money and the department~~  
2 ~~or the recipient's guardian, relative, or physician makes written~~  
3 ~~request of the facility to accept this responsibility; or~~

4       ~~(b) Capable of handling his or her own money, but requests the~~  
5 ~~facility in writing to accept this responsibility.~~

6       ~~(3) The written requests provided in subsection (2) of this section~~  
7 ~~shall be maintained by the contractor in the recipient's file.~~

8       ~~(4) The recipient must be given at least a quarterly reporting of~~  
9 ~~all financial transactions in his or her trust account. The~~  
10 ~~representative payee, the guardian, and/or other designated agents of~~  
11 ~~the recipient must be sent a copy of said reporting on the same basis~~  
12 ~~as the recipient.))~~

13       The department shall adopt rules to ensure that resident personal  
14 funds handled by the facility are maintained by each nursing home in a  
15 manner that is, at a minimum, consistent with federal requirements."

16       "NEW SECTION. Sec. 20. The following acts or parts of acts are  
17 each repealed:

- 18       (1) RCW 74.42.610 and 1980 c 177 s 85 & 1979 ex.s. c 211 s 61;
- 19       (2) RCW 74.46.710 and 1983 1st ex.s. c 67 s 37 & 1980 c 177 s 71;
- 20       (3) RCW 74.46.720 and 1983 1st ex.s. c 67 s 38 & 1980 c 177 s 72;
- 21       (4) RCW 74.46.730 and 1980 c 177 s 73;
- 22       (5) RCW 74.46.740 and 1980 c 177 s 74;
- 23       (6) RCW 74.46.750 and 1980 c 177 s 75; and
- 24       (7) RCW 74.46.760 and 1985 c 7 s 149 & 1980 c 177 s 76."

25       "NEW SECTION. Sec. 21. This act is necessary for the immediate  
26 preservation of the public peace, health, or safety, or support of the  
27 state government and its existing public institutions, and shall take  
28 effect July 1, 1991."

1 **HB 1890** - H AMD  
2 By Representative

3

4 On page 1, line 1 of the title, after "homes;" strike the remainder  
5 of the title and insert "amending RCW 18.51.050, 18.51.310, 43.190.020,  
6 70.38.105, 74.08.044, 74.09.250, 74.09.260, 74.09.510, 74.09.700,  
7 74.46.020, 74.46.380, 74.46.660, 74.46.210, 74.46.410, 74.46.481,  
8 74.46.530, 74.46.360, and 74.46.700; reenacting and amending RCW  
9 74.09.520; repealing RCW 74.42.610, 74.46.710, 74.46.720, 74.46.730,  
10 74.46.740, 74.46.750, and 74.46.760; providing an effective date; and  
11 declaring an emergency."